UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re	:	**Chapter 11**
WASHINGTON MUTUAL, INC., *et al.*,[1]	:	**Case No. 08-12229 (MFW)**
Debtors.	:	**(Jointly Administered)**

PLAN SUPPLEMENT IN SUPPORT OF
SEVENTH AMENDED JOINT PLAN OF AFFILIATED DEBTORS
PURSUANT TO CHAPTER 11 OF THE UNITED STATES BANKRUPTCY CODE[2]

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- and -

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Dated: January 25, 2012

[1] The Debtors in these chapter 11 cases along with the last four digits of each Debtor's federal tax identification number are: (i) Washington Mutual, Inc. (3725); and (ii) WMI Investment Corp. (5395). The Debtors' principal offices are located at 1201 Third Avenue, Suite 3000, Seattle, Washington 98101.

[2] The Debtors reserve the right to amend or supplement all documents and schedules contained in this Plan Supplement, and will provide adequate notice thereof. All terms used but not defined herein shall have the meanings ascribed to them in the *Seventh Amended Joint Plan of Affiliated Debtors Pursuant to Chapter 11 of the United States Bankruptcy Code*, dated December 12, 2011 (as has been modified and may be further modified or amended, the "Plan").

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Exhibit A

Form of Liquidating Trust Agreement

WMI LIQUIDATING TRUST AGREEMENT

WMI LIQUIDATING TRUST AGREEMENT, dated as of [●], 2012 (this "Trust Agreement"), is by and among Washington Mutual, Inc. ("WMI") and WMI Investment Corp. ("WMI Investment" and, together with WMI, the "Debtors"), [as debtors and debtors-in-possession][1], William C. Kosturos, as liquidating trustee (together with any successor or additional trustee appointed under the terms hereof, the "Liquidating Trustee"), and CSC Trust Company of Delaware as the Delaware resident trustee (together with any successor Delaware resident trustee appointed under the terms hereof, the "Resident Trustee" and collectively with the Liquidating Trustee, the "Trustees") of the WMI Liquidating Trust (the "Liquidating Trust"). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Debtors' Seventh Amended Joint Plan of Affiliated Debtors Pursuant to Chapter 11 of the United States Bankruptcy Code, dated December 12, 2011, as confirmed (including all exhibits thereto, as the same may be further amended, modified, or supplemented from time to time, the "Plan").

BACKGROUND

A. On September 26, 2008, the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code in the Bankruptcy Court.

B. On December 12, 2011, the Debtors filed the Plan and the disclosure statement relating to the Plan (as amended, the "Disclosure Statement") with the Bankruptcy Court.

C. On February [●], 2012, the Bankruptcy Court entered an order confirming the Plan (the "Confirmation Order").

D. The Plan provides for the creation of a liquidating trust on or before the Effective Date to hold, manage and administer the Liquidating Trust Assets and distribute the proceeds thereof, if any, to the Liquidating Trust Beneficiaries, in accordance with the terms of this Trust Agreement, the Plan and the Confirmation Order.

E. The Liquidating Trust is being created on behalf of, and for the benefit of, the Liquidating Trust Beneficiaries.

F. The Liquidating Trustee shall have all powers necessary to implement the provisions of this Trust Agreement and administer the Liquidating Trust, including, without limitation, the power to: (i) prosecute for the benefit of the Liquidating Trust Beneficiaries through Trust Professionals (as defined herein) any causes of action that may from time to time be held by the Liquidating Trust; (ii) preserve, maintain and liquidate the Liquidating Trust Assets; (iii) distribute the Liquidating Trust proceeds to

[1] NTD: May need to be revised depending on when this agreement is executed.

the Liquidating Trust Beneficiaries; and (iv) otherwise perform the functions and take the actions provided for in this Trust Agreement or permitted in the Plan and/or the Confirmation Order or in any other agreement executed pursuant to the Plan, in each case subject to the provisions of Sections 6.3, 6.4, 6.5 and 6.6 of this Trust Agreement regarding limitation on the Liquidating Trustee and the oversight and consent rights of the Trust Advisory Board (as defined herein), the Litigation Subcommittee (as defined herein) and the Bankruptcy Court as provided for herein.

G. The Liquidating Trust is organized for the sole purpose of liquidating and distributing the Liquidating Trust Assets, with no objective to conduct a trade or business except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Liquidating Trust.

H. The Liquidating Trust is intended to qualify as a "liquidating trust" under the Internal Revenue Code of 1986, as amended (the "IRC") and the regulations promulgated thereunder (the "Treasury Regulations"), specifically Treasury Regulations section 301.7701-4(d) and, as such, as a "grantor trust" for United States federal income tax purposes with the Liquidating Trust Beneficiaries treated as the grantors and owners of the Liquidating Trust.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained herein, the Debtors and the Liquidating Trustee agree as follows:

ARTICLE I

DECLARATION OF TRUST

1.1 Creation of Trust. The Debtors and the Liquidating Trustee, pursuant to the Plan and the Confirmation Order and in accordance with the applicable provisions of chapter 11 of the Bankruptcy Code, hereby constitute and create the Liquidating Trust, which shall bear the name "WMI Liquidating Trust." In connection with the exercise of the Liquidating Trustee's power hereunder, the Liquidating Trustee may use this name or such variation thereof as the Liquidating Trustee sees fit.

1.2 Purpose of Liquidating Trust. The sole purpose of the Liquidating Trust is to implement the Plan on behalf, and for the benefit, of the Liquidating Trust Beneficiaries, and to serve as a mechanism for liquidating, converting to Cash and distributing the Liquidating Trust Assets in accordance with Treasury Regulations section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Liquidating Trust.

1.3 Transfer of Liquidating Trust Assets. On the Effective Date, the Debtors shall transfer, for the sole benefit of the Liquidating Trust Beneficiaries, pursuant

to Bankruptcy Code sections 1123(a)(5)(B) and 1123(b)(3)(B) and in accordance with the Plan and the Confirmation Order, the Liquidating Trust Assets to the Liquidating Trust, free and clear of any and all liens, claims, encumbrances and interests (legal, beneficial or otherwise) of all other entities to the maximum extent contemplated by and permissible under Bankruptcy Code section 1141(c); provided, however, that the Liquidating Trust Assets may be transferred subject to certain liabilities, as provided in the Plan, Confirmation Order or as otherwise provided herein. On the Effective Date, there shall be set aside out of the Liquidating Trust Assets the amount of Cash that was reasonably determined by the Debtors and the Creditors' Committee following consultation with the Equity Committee prior to the Effective Date to be necessary to fund the activities of the Liquidating Trust, which amount shall be Sixty Million Dollars ($60,000,000.00) (the "Funding"); provided, however, that the Funding may be increased from time to time during the term of the Liquidating Trust upon the request of the Liquidating Trustee and the approval of a Supermajority of the Trust Advisory Board. A "Supermajority" shall mean the affirmative vote of five (5) of the seven (7) members of the Trust Advisory Board; provided, however, that if the Trust Advisory Board is reduced to five (5) members pursuant to Section 6.4(d), a "Supermajority" shall mean the affirmative vote of three (3) of the five (5) members of the Trust Advisory Board. Twenty Million Dollars ($20,000,000.00) of the Funding (the "Litigation Funding") shall be allocated to the Litigation Subcommittee, with both the first Ten Million Dollars ($10,000,000.00) of the Litigation Funding and the second Ten Million Dollars ($10,000,000.00) of the Litigation Funding (the "Second Tranche") to be used for the prosecution of the Recovery Claims (as defined herein); provided, however, that, prior to the allocation and use of any portion of the Second Tranche, the Litigation Subcommittee shall obtain the approval of the Trust Advisory Board as to the reasonable expenditure of such funds; provided, further, that the Litigation Funding may be increased during the term of the Liquidating Trust upon the request of the Litigation Subcommittee and the approval of a Supermajority of the Trust Advisory Board, which approval may be granted or withheld by the Trust Advisory Board in its sole and absolute discretion, and provided that any additional Litigation Funding that is approved shall be deducted from any remaining portion of the Administrative Funding (as defined herein); provided, further, that nothing herein shall preclude the Trust Advisory Board or the Litigation Subcommittee from seeking additional financing from sources other than the Liquidating Trust Assets in the discharge of their fiduciary duties; provided, further, that any portion of the Funding, including the Litigation Funding, that is not used to fund the activities of the Liquidating Trust shall be distributed in accordance with Section 4.3 hereof. The transfer of the Liquidating Trust Assets shall be exempt from any stamp, real estate transfer, mortgage reporting, sales, use or other similar Tax, pursuant to section 1146(a) of the Bankruptcy Code. Upon delivery of all Liquidating Trust Assets to the Liquidating Trust, the Debtors shall be discharged and released from all liability with respect to the delivery of such distributions, and exculpated as provided in Section 41.8 of the Plan. In connection with the receipt of the Liquidating Trust Assets, the Liquidating Trust shall acquire and assume all of WMI's rights and obligations pursuant to Section 2.4 of the Global Settlement Agreement, and WMI shall have no further liability or obligations thereunder. The Liquidating Trust Assets and all other property held from time to time by the Liquidating Trust under this

Trust Agreement and any earnings, including without limitation, interest, on any of the foregoing are to be applied by the Liquidating Trustee in accordance with the terms hereof, the Plan and the Confirmation Order for the benefit of the Liquidating Trust Beneficiaries, and for no other party, subject to the further covenants, conditions and terms hereinafter set forth.

1.4 Appointment and Acceptance of Liquidating Trustee. As set forth in the Confirmation Order, the members of the Trust Advisory Board hereby designate William C. Kosturos in connection with the applicable provisions of the Delaware Statutory Trust Act, 12 Del. C. § 3801 et seq., as the same may from time to time be amended, or any successor statute (the "Trust Act") to serve as the initial Liquidating Trustee under the Plan. The Liquidating Trustee shall be deemed to be appointed pursuant to Bankruptcy Code section 1123(b)(3)(B). The Liquidating Trustee accepts the Liquidating Trust created by this Trust Agreement and the grant, assignment, transfer, conveyance and delivery to the Liquidating Trustee, on behalf, and for the benefit, of the Liquidating Trust Beneficiaries, by the Debtors of all of their respective right, title and interest in the Liquidating Trust Assets, upon and subject to the terms and conditions set forth herein, in the Plan and in the Confirmation Order. The Liquidating Trustee's powers are exercisable solely in a fiduciary capacity consistent with, and in furtherance of, the purpose of the Liquidating Trust and not otherwise. The Liquidating Trustee shall have the authority to bind the Liquidating Trust within the limitations set forth herein, but shall for all purposes hereunder be acting in the capacity as Liquidating Trustee, and not individually.

1.5 Liquidation of Liquidating Trust Assets. The Liquidating Trustee shall, in an expeditious but commercially reasonable manner and subject to the provisions of the Plan (including, without limitation, Section 31.14 of the Plan), the Confirmation Order and the other provisions of this Trust Agreement, liquidate and convert to Cash the Liquidating Trust Assets, make timely distributions in accordance with the terms hereof and the Plan and not unduly prolong the existence of the Liquidating Trust. The Liquidating Trustee shall exercise reasonable business judgment and liquidate the Liquidating Trust Assets to maximize net recoveries; provided, however, that the Liquidating Trustee shall be entitled to take into consideration the risks, timing, and costs of potential actions in making determinations as to the maximization of recoveries and the determinations and actions of the Liquidating Trustee shall in all cases be subject to the limitations provided elsewhere herein. Subject to the terms of this Trust Agreement, such liquidations may be accomplished through the prosecution, compromise and settlement, abandonment or dismissal of any or all claims, rights or causes of action of the Liquidating Trust or through the sale or other disposition of the Liquidating Trust Assets (in whole or in combination, and including the sale of any claims, rights or causes of action of the Liquidating Trust). The Liquidating Trustee may incur any reasonable and necessary expenses in connection with the liquidation and conversion of the Liquidating Trust Assets into Cash or in connection with the administration of the Liquidating Trust and, to the extent that any Administrative Funding (as defined herein) is available, such expenses shall first be deducted from the Administrative Funding.

1.6 No Reversion to Debtors. In no event shall any part of the Liquidating Trust Assets revert to or be distributed to any Debtor or Reorganized Debtor.

1.7 Incidents of Ownership. Except as provided in Section 1.6 hereof, the Liquidating Trust Beneficiaries shall be the sole beneficiaries of the Liquidating Trust and the Liquidating Trust Assets, and the Liquidating Trustee shall retain only such incidents of ownership as are necessary to undertake the actions and transactions authorized herein, in the Plan and in the Confirmation Order, including, but not limited to, those powers set forth in Section 6.2 hereof.

1.8 Privileges and Obligation to Respond to Ongoing Investigations. All Privileges shall be transferred, assigned, and delivered to the Liquidating Trust, without waiver, and shall vest in the Liquidating Trustee solely in its capacity as such (and any other individual whom the Liquidating Trustee, with the consent of the Trust Advisory Board or the Litigation Subcommittee, as applicable, may designate, it being understood that, as of the date of this Trust Agreement, the Liquidating Trustee shall designate the Trust Advisory Board and the Litigation Subcommittee, solely in their capacities as such, as well as any other individual designated in this Trust Agreement). Pursuant to Federal Rule of Evidence 502(d) (to the extent Rule 502(d) is relevant notwithstanding the fact that the Debtors, the Liquidating Trustee, the FDIC Receiver and JPMC are joint holders of certain attorney-client privileges, work product protections, or other immunities or protections from disclosure), no Privileges shall be waived by disclosure to the Liquidating Trustee, the Trust Advisory Board and/or the Litigation Subcommittee of the Debtors' information subject to attorney-client privileges, work product protections, or other immunities or protections from disclosure, or by disclosure among the Debtors, the Liquidating Trustee, the Trust Advisory Board, the Litigation Subcommittee, the FDIC Receiver, and/or JPMC of information that is subject to attorney-client privileges, work product protections, or other immunities or protections from disclosure jointly held by the Debtors, the FDIC Receiver, the Liquidating Trustee, the Trust Advisory Board, the Litigation Subcommittee and/or JPMC. The Liquidating Trustee shall be obligated to respond, on behalf of the Debtors, to all Information Demands. The FDIC Receiver and JPMC shall take reasonable steps to cooperate with the Liquidating Trustee in responding to Information Demands, and such cooperation shall include, for example, taking all steps necessary to maintain and avoid waiver of any and all Privileges (including, without limitation, any Privileges that are shared jointly among or between any of the parties). The Liquidating Trustee, with the consent of the Trust Advisory Board or the Litigation Subcommittee, as applicable, may waive Privileges that are held solely by the Debtors and/or the Liquidating Trust, but not jointly held with the FDIC Receiver and/or JPMC, in the event and to the extent the Liquidating Trustee, with the consent of the Trust Advisory Board or the Litigation Subcommittee, as applicable, determines in good faith that doing so is in the best interests of the Liquidating Trust and its beneficiaries. The Liquidating Trustee, the FDIC Receiver and JPMC may disclose information that is subject to attorney-client privileges, work product protections, or other immunities or protections from disclosure that are jointly held with the FDIC Receiver and/or JPMC only (i) upon written permission from the Liquidating

Trustee, the FDIC Receiver and JPMC, as the case may be; (ii) pursuant to an order of a court of competent jurisdiction, subject to the procedure described in the next sentence insofar as it applies; or (iii) as otherwise required by law, subject to the procedure described in the next sentence insofar as it applies. If the Liquidating Trustee, the Trust Advisory Board, the Litigation Subcommittee, the FDIC Receiver or JPMC receives a request from a third party to disclose information that is subject to attorney-client privileges, work product protections, or other immunities or protections from disclosure that are jointly held with the Liquidating Trustee, the Trust Advisory Board, the Litigation Subcommittee, the FDIC Receiver and/or JPMC, the party or parties who receives such request will (w) pursue all reasonable steps to maintain the applicable privileges or protections from disclosure, including, if necessary, to maintain the privileges or protections from disclosure by seeking a protective order against and/or otherwise objecting to the production of such material, (x) notify the Liquidating Trustee, the Trust Advisory Board, the Litigation Subcommittee, the FDIC Receiver and/or JPMC, as the case may be, (y) allow the Liquidating Trustee, the Trust Advisory Board, the Litigation Subcommittee, the FDIC Receiver and/or JPMC, as the case may be, reasonable time under the circumstances to seek a protective order against and/or otherwise object to the production of such material, and (z) unless required by law, not disclose the materials in question unless and until any objection raised by the Liquidating Trustee, the Trust Advisory Board, the Litigation Subcommittee, the FDIC Receiver and/or JPMC is resolved in favor of disclosure.

1.9 Liquidating Trustee's Administration and Rights with Respect to Runoff Notes. Until such time as any Runoff Notes that are held by the Liquidating Trust are distributed to any Liquidating Trust Beneficiaries entitled thereto in accordance with the Plan, the Liquidating Trustee shall (i) not sell, convey, dispose or otherwise transfer the Runoff Notes except as expressly provided for in the Plan and (ii) exercise any remedies available to Holders (as defined in the Indenture) under the Indenture or any Security Document (as defined in the Indenture) as the Liquidating Trustee deems necessary and advisable solely to protect the interests of such Liquidating Trust Beneficiaries.

ARTICLE II

LIQUIDATING TRUST BENEFICIARIES

2.1 Conflicting Claims. If any conflicting claims or demands are made or asserted with respect to a Liquidating Trust Interest, the Liquidating Trustee shall be entitled, at his sole election, to refuse to comply with any such conflicting claims or demands. In so refusing, the Liquidating Trustee, at his sole election, may elect to make no payment or distribution with respect to the Liquidating Trust Interest subject to the claims or demands involved, or any part thereof, and the Liquidating Trustee shall refer such conflicting claims or demands to the Bankruptcy Court, which shall have exclusive jurisdiction over resolution of such conflicting claims or demands. In so doing, the Liquidating Trustee shall not be or become liable to any party for its refusal to comply with any of such conflicting claims or demands. The Liquidating Trustee shall be

entitled to refuse to act until either (i) the rights of the adverse claimants have been adjudicated by a Final Order of the Bankruptcy Court (or such other court of proper jurisdiction) or (ii) all differences have been resolved by a written agreement among all of such parties and the Liquidating Trustee, which agreement shall include a complete release of the Liquidating Trust and the Liquidating Trustee (the occurrence of either (i) or (ii) in this Section 2.1 being referred to as a "Dispute Resolution"). Promptly after a Dispute Resolution is reached, the Liquidating Trustee shall transfer the payments and distributions, if any, together with any interest thereon to be paid in accordance with Section 4.6 hereof, in accordance with the terms of such Dispute Resolution. Any payment of any interest or income should be net of any taxes attributable thereto in accordance with Section 5.4.

2.2 Rights of Liquidating Trust Beneficiaries. Each Liquidating Trust Beneficiary shall be entitled to participate in the rights and benefits due to a Liquidating Trust Beneficiary hereunder according to the terms of its Liquidating Trust Interest. The interest of a Liquidating Trust Beneficiary is hereby declared and shall be in all respects personal property. Except as expressly provided hereunder, a Liquidating Trust Beneficiary shall have no title to, right to, possession of, management of or control of the Liquidating Trust or the Liquidating Trust Assets or to any right to call for a partition or division of such assets or to require an accounting. No surviving spouse, heir or devisee of any deceased Liquidating Trust Beneficiary shall have any right of dower, homestead or inheritance, or of partition, or any other right, statutory or otherwise, in the Liquidating Trust Assets, but the whole title to the Liquidating Trust Assets shall be vested in the Liquidating Trustee and the sole interest of the Liquidating Trust Beneficiaries shall be the rights and benefits given to such person under this Trust Agreement and the Plan.

2.3 Evidence of Liquidating Trust Interest. Ownership of a Liquidating Trust Interest in the Liquidating Trust will be evidenced by the recording of such ownership in an electronic book-entry system (the "Book Entry System") maintained either by the Liquidating Trust or an agent of the Liquidating Trust. A Liquidating Trust Beneficiary shall be deemed the "holder of record" (hereinafter "holder") of such Liquidating Trust Beneficiary's Liquidating Trust Interest(s) for purposes of all applicable United States federal and state laws, rules and regulations. The Liquidating Trustee shall, upon the written request of a holder of a Liquidating Trust Interest, provide reasonably adequate documentary evidence of such holder's Liquidating Trust Interest, as indicated in the Book Entry System. The expense of providing such documentation shall be borne by the requesting holder.

2.4 Transfers of Liquidating Trust Interests.

(a) General. Liquidating Trust Interests shall not be transferable or assignable except by will, intestate succession or operation of law.

(b) Book Entry System. Pursuant to the Book Entry System, the Liquidating Trust shall maintain, or cause the agent of the Liquidating Trust to maintain, a register (which may be electronic) setting forth the names and addresses of

the Liquidating Trust Beneficiaries, and the amount and class of their Liquidating Trust Interests from time to time. Any transfer or assignment of a Liquidating Trust Interest by will, intestate succession or operation of law shall not be effective unless and until such transfer or assignment is recorded in the Book Entry System, which shall be completed as soon as practicable. Subject to Section 2.4(d), the entries in the Book Entry System shall be conclusive absent manifest error, and the Liquidating Trust and the Liquidating Trustee shall treat each person whose name is recorded in the Book Entry System pursuant to the terms hereof as the owner of Liquidating Trust Interests indicated therein for all purposes of this Trust Agreement, notwithstanding notice to the contrary.

(c) Registration. If the Liquidating Trustee, with the consent of the Trust Advisory Board and upon advice of counsel, determines that any class of Liquidating Trust Interests may be subject to registration pursuant to section 12 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), the Liquidating Trustee shall pursue relief from such registration by obtaining either an exemptive order, a no-action letter or an interpretive letter from the Securities and Exchange Commission or its staff or, absent its ability to achieve that objective or in lieu thereof, shall register such class pursuant to section 12 of such statute (it being understood and agreed that the Liquidating Trustee with the consent of the Trust Advisory Board shall be authorized, among other things, to register such class and to seek relief from one or more of the requirements then applicable subsequent to such registration and to de-register such class). To the extent that any Administrative Funding is available, any expenses that are associated with such application for relief and/or registration shall first be deducted from the Administrative Funding.

(d) Further Limitations on Transfer. Notwithstanding any other provision to the contrary, the Liquidating Trustee may disregard any purported transfer or assignment of Liquidating Trust Interests by will, intestate succession or operation of law if sufficient necessary information (as reasonably determined by the Liquidating Trustee), including applicable Tax-related information, is not provided by such purported transferee or assignee to the Liquidating Trustee.

2.5 Limited Liability. No provision of this Trust Agreement, the Plan or the Confirmation Order, and no mere enumeration herein of the rights or privileges of any Liquidating Trust Beneficiary, shall give rise to any liability of such Liquidating Trust Beneficiary solely in its capacity as such, whether such liability is asserted by any Debtor, by creditors, employees, or equity interest holders of any Debtor, or by any other Person. Liquidating Trust Beneficiaries are deemed to receive the Liquidating Trust Assets in accordance with the provisions of this Trust Agreement, the Plan and the Confirmation Order in exchange for their Allowed Claims or Equity Interests, as applicable, without further obligation or liability of any kind, but subject to the provisions of this Trust Agreement.

ARTICLE III

DURATION AND TERMINATION OF LIQUIDATING TRUST

3.1 Duration. The Liquidating Trust shall become effective upon the Effective Date of the Plan and shall remain and continue in full force and effect until dissolved as provided for in Section 27.14(d) of the Plan.

3.2 Dissolution of the Liquidating Trust. The Liquidating Trustee and the Liquidating Trust shall be discharged or dissolved, as the case may be, on the earlier to occur of (i) all of the Liquidating Trust Assets having been distributed pursuant to the Plan and this Trust Agreement, (ii) the Liquidating Trustee having determined, with the consent of the Trust Advisory Board, that the administration of any remaining Liquidating Trust Assets is not likely to yield sufficient additional Liquidating Trust proceeds to justify further pursuit, or (iii) all distributions required to be made by the Liquidating Trustee under the Plan and this Trust Agreement having been made; provided, however, that in no event shall the Liquidating Trust be dissolved later than three (3) years from the Effective Date unless the Bankruptcy Court, upon motion within the six-month period prior to the third (3rd) anniversary (or within the six-month period prior to the end of any extension period), determines that a fixed period extension (not to exceed three (3) years, together with any prior extensions, without a favorable private letter ruling from the IRS or an opinion of counsel satisfactory to the Liquidating Trustee and the Trust Advisory Board that any further extension would not adversely affect the status of the trust as a liquidating trust for United States federal income tax purposes) is necessary to facilitate or complete the recovery and liquidation of the Liquidating Trust Assets. If at any time the Liquidating Trustee determines, in reliance upon such Trust Professionals as the Liquidating Trustee may retain, that the expense of administering the Liquidating Trust so as to make a final distribution to the Liquidating Trust Beneficiaries is likely to exceed the value of the assets remaining in the Liquidating Trust, the Liquidating Trustee may apply to the Bankruptcy Court for authority to (i) reserve any amount necessary to dissolve the Liquidating Trust, (ii) donate any balance to a charitable organization (A) of the type described in section 501(c)(3) of the IRC, (B) exempt from United States federal income tax under section 501(a) of the IRC, (C) that is not a "private foundation", as defined in section 509(a) of the IRC, and (D) that is unrelated to the Debtors, the Reorganized Debtors, the Liquidating Trust, and any insider of the Liquidating Trustee, and (iii) dissolve the Liquidating Trust. Upon receipt of such authority from the Bankruptcy Court, the Liquidating Trustee shall (X) notify each Liquidating Trust Beneficiary, (Y) file a Certificate of Cancellation with the Secretary of State of the State of Delaware and (Z) provide a copy of the evidence of such cancellation to the Resident Trustee.

3.3 Continuance of Liquidating Trust for Winding Up. After the dissolution of the Liquidating Trust and solely for the purpose of liquidating and winding up the affairs of the Liquidating Trust, the Liquidating Trustee shall continue to act as such until its duties have been fully performed. Upon distribution of all the Liquidating Trust Assets, the Liquidating Trustee shall retain the books, records and files that shall

have been delivered to or created by the Liquidating Trustee. At the Liquidating Trustee's discretion, all of such records and documents may be destroyed at any time following the date that is six (6) years after the final distribution of the Liquidating Trust Assets, subject to any joint prosecution and common interests agreement(s) to which the Liquidating Trustee may be party.

ARTICLE IV

ADMINISTRATION OF LIQUIDATING TRUST

4.1 Payment of Claims, Expenses and Liabilities. Subject to the Budget (as defined below) from time to time approved by the Trust Advisory Board in accordance with Section 4.14(b) hereof, and subject to the approval of the Bankruptcy Court in accordance with Sections 6.4(l), 6.5(k), 6.8(b), 6.11(c) and 7.7, and except as otherwise provided herein, the Liquidating Trustee shall use the Funding (i) to pay reasonable costs and expenses of the Liquidating Trust that are incurred (including, but not limited to, the costs and expenses associated with the administration of the Disputed Equity Escrow (excluding any Taxes), any Taxes imposed on the Liquidating Trust, the actual reasonable out-of-pocket fees and expenses incurred by Trust Professionals in connection with the administration and liquidation of the Liquidating Trust Assets, as provided in Section 6.8 hereof, and the preservation of books and records of the Liquidating Trust); (ii) to satisfy other obligations or other liabilities incurred or assumed by the Liquidating Trust (or to which the Liquidating Trust Assets are otherwise subject) in accordance with the Plan, the Confirmation Order, the Global Settlement Agreement or this Trust Agreement, including fees and costs incurred in connection with the protection, preservation, liquidation and distribution of the Liquidating Trust Assets and the costs of investigating, prosecuting, resolving and/or settling any Claims; (iii) as reasonably necessary to meet contingent liabilities and to maintain the value of the Liquidating Trust Assets during liquidation, (iv) to satisfy any other obligations of the Liquidating Trust expressly set forth in the Plan, this Trust Agreement, the Confirmation Order, and the Global Settlement Agreement.

4.2 BB Liquidating Trust Interests. On the Effective Date, the Liquidating Trustee shall immediately distribute the funds on account of the BB Liquidating Trust Interests, subject to consensual release by the parties pursuant to Section 2.4 of the Global Settlement Agreement of such funds from the tax escrow account.

4.3 Distributions.

(a) Generally. Subject to Section 4.4(b) hereof, the Liquidating Trustee is required to distribute to the Liquidating Trust Beneficiaries on account of their Liquidating Trust Interests, on each Distribution Date (as defined below) all unrestricted Cash then on hand (including any Cash received from the Debtors on the Effective Date, and treating any permissible investment as Cash for purposes of this Section 4.3), except (i) the Funding, (ii) such other amounts as are allocable to or retained

on account of Disputed Claims in accordance with Section 26.3 of the Plan, and (iii) after taking into account the Funding, such additional amounts (A) as are reasonably necessary to meet contingent liabilities and to maintain the value of the Liquidating Trust Assets pending their liquidation during the term of the Liquidating Trust, (B) as are necessary to pay reasonably incurred or anticipated expenses (including, but not limited to, any Taxes imposed on or payable by the Debtors or the Liquidating Trust or in respect of the Liquidating Trust Assets), or (C) as are necessary to satisfy other liabilities incurred or anticipated by the Liquidating Trust in accordance with the Plan, the Global Settlement Agreement, or this Trust Agreement; provided, that the amounts listed in clause (iii) shall be subject to the approval of a Supermajority of the Trust Advisory Board; provided, further, that the Liquidating Trustee shall not be required to make a distribution pursuant to this Section 4.3 if the aggregate, net amount of unrestricted Cash available for distribution (taking into account the above listed exclusions) is such as would make the distribution impracticable as reasonably determined by the Liquidating Trustee, with the consent of the Trust Advisory Board, in accordance with applicable law, and so long as such aggregate amount is less than Twenty-Five Million Dollars ($25,000,000.00); and provided, further, that the Liquidating Trustee, with consent of the Trust Advisory Board, may decide to forego the first quarterly distribution to those Liquidating Trust Beneficiaries with respect to which the Liquidating Trustee, in its reasonable judgment, is not administratively prepared to make such distribution, in which case, such distribution shall be made to such holders as soon as practicable after the Liquidating Trustee is administratively prepared to do so. "Distribution Date" means the 1st day of the second month in each fiscal quarter during the term of the Liquidating Trust or such other dates that the Liquidating Trustee determines, in consultation with the Trust Advisory Board, are appropriate from time to time; provided, however, that there shall be at least one such date in each fiscal quarter during the term of the Liquidating Trust.

(b) Payment of Distributions. Subject to Section 4.2, each Liquidating Trust Beneficiary's share of the Liquidating Trust Interests as determined pursuant to the Plan (including any Cash to be received on account of any Liquidating Trust Interests) shall be allocated and distributed, and the Liquidating Trust Assets shall be allocated and distributed, in accordance with Article XXXI of the Plan and Annex C hereto. Any distribution that is to be made to a Liquidating Trust Beneficiary who elected to forego fifty percent (50%) of such Liquidating Trust Beneficiary's Litigation Proceeds Interest shall be adjusted as required pursuant to Sections 6.2(b), 7.2(b), 16.2(b)(ii), 18.2(b), 19.1(b) and 20.2 of the Plan.

(c) De Minimis Distributions. No Cash payment shall be made to any holder of a Liquidating Trust Interest until such time, if ever, as the amount payable thereto, in any distribution from the Liquidating Trust, is equal to or greater than ten dollars ($10.00). Any holder of a Liquidating Trust Interest on account of which the amount of Cash to be distributed pursuant to any distribution from the Liquidating Trust is less than ten dollars ($10.00) shall be deemed to have no claim for such distribution against the Debtors, the Reorganized Debtors, the Liquidating Trust or the Liquidating Trust Assets. Subject to Section 4.6 hereof, any Cash not distributed pursuant to this

Section 4.3 shall be the property of the Liquidating Trust free of any restrictions thereon, and shall be available for distribution to the other Liquidating Trust Beneficiaries, in accordance with the Plan and this Trust Agreement.

(d) Runoff Notes. To the extent the Liquidating Trust Assets include Runoff Notes that are not allocable to the Liquidating Trust Claims Reserve, the Liquidating Trustee shall distribute such Runoff Notes in accordance with Section 31.14 of the Plan.

4.4 Undeliverable Property.

(a) Holding of Undeliverable Distributions: For purposes of this Trust Agreement, an "undeliverable" distribution shall include, without limitation, a check that is sent to a holder in respect of a distribution to such holder, which check has not been negotiated within six (6) months following the date on which such check was issued. Subject to Section 4.4(b), if any distribution to the holder of a Liquidating Trust Interest is undeliverable, no further distribution shall be made to such holder unless and until the Liquidating Trustee (or its duly authorized agent) is notified, in writing, of such holder's then-current address. Undeliverable distributions shall remain in the possession of the Liquidating Trustee (or its duly authorized agent) until such time as a distribution becomes deliverable or as set forth in Section 4.4(b) below. All Entities ultimately receiving an undeliverable distribution shall not be entitled to any interest or other accruals of any kind on account of the delay in payment resulting from the undeliverable status of such distribution. Except as required by law, the Liquidating Trustee (or its duly authorized agent) shall not be required to attempt to locate any holder of a Liquidating Trust Interest.

(b) Failure to Claim Undeliverable Distributions: If (i) a check is sent to a holder in respect of a distribution and such check is not negotiated within six (6) months following the date on which the check was issued, or (ii) any other form of distribution to a holder is otherwise undeliverable, the Liquidating Trustee (or its duly authorized agent) shall, no later than seven (7) months after the sending of the un-negotiated check or other form of undeliverable distribution, send a written notice (a "Missing Holder Notice") to such holder at the address shown on the Book Entry System with respect to such holder. The Missing Holder Notice shall state that (i) the holder has been sent a check or other form of distribution that has not yet been negotiated or is otherwise undeliverable, (ii) no further distributions will be made to such holder unless and until the Liquidating Trustee (or its duly authorized agent) is notified, in writing, of such holder's then-current address, and (iii) that unless such holder notifies the Liquidating Trustee (or its duly authorized agent) of the holder's then-current address within thirty (30) days of the date of the Missing Holder Notice, such holder shall have its entitlement to such undeliverable distribution and the Liquidating Trust Interest or Interests to which such undeliverable distribution relates cancelled and shall be forever barred from asserting any entitlement with respect thereto pursuant to the Plan, this Trust Agreement or otherwise against the Debtors, the Reorganized Debtors, the Liquidating

Trust, or their respective property. In such case, any consideration held for distribution on account of such Liquidating Trust Interest(s) shall revert to the Liquidating Trustee for redistribution to other holders of Liquidating Trust Interests in accordance with the terms and provisions of this Trust Agreement, the Plan and the Confirmation Order.

4.5 Interest on Liquidating Trust Interests. As set forth in the Plan, interest shall not accrue and be paid on the Liquidating Trust Interests themselves, but only with respect to and to the extent provided in the Plan with respect to an Allowed Claim ("Interest"). Interest may, as an incremental adjustment on the maximum amount the Liquidating Trust distributes in respect of a Liquidating Trust Interest, accrue up to and including the date of final payment in full of the Allowed Claim related to the Liquidating Trust Interest as provided in the Plan.

4.6 Setoffs. The Liquidating Trustee may, pursuant to applicable bankruptcy or non-bankruptcy law, set off against any Liquidating Trust Interest and the distributions to be made pursuant to the Plan on account thereof (before any distribution is made on account of such Liquidating Trust Interest by the Liquidating Trustee), the claims, rights, and causes of action of any nature that one or more of the Debtors, Debtors in Possession, the Liquidating Trustee or the Reorganized Debtors may hold against the holder of such Allowed Claim; provided, however, that neither the failure to effect such a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors, Debtors in Possession, the Liquidating Trustee or the Reorganized Debtors of any such claims, rights, and causes of action that the Debtors, Debtors in Possession, the Liquidating Trustee or the Reorganized Debtors may possess against such holder; and, provided, further, that nothing contained herein is intended to limit the ability of any Liquidating Trust Beneficiary to effectuate rights of setoff or recoupment preserved or permitted by the provisions of sections 553, 555, 559, or 560 of the Bankruptcy Code or pursuant to the common law right of recoupment.

4.7 Distributions After the Effective Date. Distributions made after the Effective Date to holders of Liquidating Trust Interests on account of Claims that are not Allowed Claims as of the Effective Date, but which later become Allowed Claims, shall be deemed to have been made in accordance with the terms and provisions of Article XXXI of the Plan.

4.8 Compliance with Laws. Any and all distributions of Liquidating Trust Assets shall be in compliance with applicable laws, including but not limited to, applicable federal and state tax and securities laws.

4.9 Fiscal Year. Except for the first and last years of the Liquidating Trust, the fiscal year of the Liquidating Trust shall be the calendar year. For the first and last years of the Liquidating Trust, the fiscal year of the Liquidating Trust shall be such portion of the calendar year that the Liquidating Trust is in existence.

4.10 Books and Records. The Liquidating Trustee shall retain and preserve the Debtors' books, records and files that shall have been delivered to or created

by the Liquidating Trustee. Subject to Section 3.3 hereof, the Liquidating Trustee shall maintain, in respect of the Liquidating Trust and the Liquidating Trust Beneficiaries and all others to receive distributions under this Trust Agreement, books and records relating to the assets and the income of the Liquidating Trust and the payment of expenses of, liabilities of, and claims against or assumed by, the Liquidating Trust and the Liquidating Trustee, in such detail and for such period of time as may be necessary to enable it to make full and proper reports in respect thereof in accordance with the provisions of this Trust Agreement and applicable provisions of law, including but not limited to applicable Tax, securities and other federal and state laws. Except as otherwise provided herein or in the Plan, nothing in this Trust Agreement requires the Liquidating Trustee to file any accounting or seek approval of any court with respect to the administration of the Liquidating Trust, or as a condition for making any payment or distribution out of the Liquidating Trust Assets. The Liquidating Trustee shall provide any member of the Trust Advisory Board with access to such books and records during normal business hours as may be reasonably requested with five (5) days' advance notice. Liquidating Trust Beneficiaries shall have the right upon thirty (30) days' prior written notice delivered to the Liquidating Trustee to inspect such books and records; provided, that, if so requested, all costs associated with such inspection shall be paid in advance by such requesting Liquidating Trust Beneficiary and such Liquidating Trust Beneficiary shall have entered into a confidentiality agreement reasonably satisfactory in form and substance to the Liquidating Trustee.

4.11 Cash Payments. Subject to Section 26.3 of the Plan and Section 4.3(d) hereof, all distributions required to be made by the Liquidating Trustee to the Liquidating Trust Beneficiaries shall be made in Cash denominated in United States dollars by checks drawn on a domestic bank selected by the Liquidating Trustee or, at the option of the Liquidating Trustee, by wire transfer from a domestic bank selected by the Liquidating Trustee or as otherwise required or provided in applicable agreements; provided, however, that Cash payments to foreign holders of Liquidating Trust Interests may be made, at the option of the Liquidating Trustee, in such funds as and by such means as are necessary or customary in a particular foreign jurisdiction.

4.12 Insurance. The Liquidating Trust shall maintain customary insurance coverage for the protection of the Liquidating Trustee, the members of the Trust Advisory Board, employees and any such other persons serving as administrators and overseers of the Liquidating Trust on and after the Effective Date. The Liquidating Trustee also may obtain insurance coverage it deems necessary and appropriate with respect to real and personal property which may become Liquidating Trust Assets, if any.

4.13 Disputes. To the extent a dispute arises between the Liquidating Trustee, the Trust Advisory Board and/or the Litigation Subcommittee concerning the performance of any of the powers, duties, and/or obligations herein, the Liquidating Trustee, the Trust Advisory Board or the Litigation Subcommittee may file a motion and/or other pleadings with the Bankruptcy Court and obtain advice and guidance or such other relief as may be appropriate concerning a resolution of the matter(s) in dispute between the parties. In the event of a dispute, the Liquidating Trustee, the Trust

Advisory Board and the Litigation Subcommittee, as applicable, shall have the right to engage legal counsel to advise it with respect to the matter(s) in dispute and the reasonable fees and expenses of such legal counsel shall be reimbursed by the Liquidating Trustee from the Funding (excluding the Litigation Funding, the "Administrative Funding")) or, in the event the Administrative Funding has been spent, any other unrestricted Cash in the Liquidating Trust, subject to the approval of a Supermajority of the Trust Advisory Board and subject to Section 7.6 hereof.

4.14 Reports.

(a) The Liquidating Trustee shall deliver reports to members of the Trust Advisory Board not later than thirty (30) days following the end of each fiscal quarter. Such reports shall specify in reasonable detail (i) the status of any Causes of Action, Claims and litigation involving the Liquidating Trust or the Liquidating Trust Assets, including, without limitation, Avoidance Actions, including any settlements entered into by the Liquidating Trust, (ii) the costs and expenses of the Liquidating Trust that are incurred (including, but not limited to, any Taxes imposed on the Liquidating Trust or actual reasonable out-of-pocket fees and expenses incurred by Trust Professionals in connection with the administration and liquidation of the Liquidating Trust Assets and preservation of books and records as provided in Section 4.10 hereof) during the preceding fiscal quarter and the remaining amount (if any) of the Administrative Funding and the Litigation Funding, (iii) the amounts listed in clause (ii) incurred since the Effective Date, (iv) the amount of Cash and other assets received by the Liquidating Trust during the prior fiscal quarter, (v) the Liquidating Trustee's estimate as of the end of the most recent fiscal quarter of the uncollected Tax Refunds and all other Liquidating Trust Assets, (vi) the aggregate amount of Cash and other assets received by the Liquidating Trust since the Effective Date, (vii) the calculation of the estimated amount of the Cash and other assets to be distributed on the next Distribution Date, including any Cash on hand that is not to be distributed pursuant to Section 4.3(a) above, (viii) the aggregate amount of distributions from the Liquidating Trust to the Liquidating Trust Beneficiaries since the Effective Date, and (ix) such other information as the Trust Advisory Board or the Litigation Subcommittee may reasonably request from time to time. The Liquidating Trustee shall also timely prepare, file and distribute such additional statements, reports and submissions (A) as may be necessary to cause the Liquidating Trust and the Liquidating Trustee to be in compliance with applicable law or (B) as may be otherwise reasonably requested from time to time by the Trust Advisory Board.

(b) The Liquidating Trustee shall prepare and submit to the Trust Advisory Board (or, pursuant to Section 6.5(c)(z), the Litigation Subcommittee, as applicable) for approval an annual plan and budget at least thirty (30) days prior to the commencement of each fiscal year of the Liquidating Trust; provided, however, that the first such report shall be submitted no later than forty-five (45) days after the Effective Date of the Plan. Such annual plan and budget shall set forth in reasonable detail: (i) the Liquidating Trustee's anticipated actions to administer and liquidate the Liquidating Trust Assets; and (ii) the anticipated expenses, including the expenses of Trust

Professionals, associated with conducting the affairs of the Liquidating Trust. Such annual plan and budget shall be updated and submitted to the Trust Advisory Board (or, pursuant to Section 6.5(c)(z), the Litigation Subcommittee) for review and approval on a quarterly basis, and each such quarterly update shall reflect the differences between the anticipated actions described in the annual report and actual operations of the Liquidating Trust to date. Any such annual plan and budget as approved by the Trust Advisory Board (or, pursuant to Section 6.5(c)(z), the Litigation Subcommittee) is referred to herein as the "Budget". All actions by the Liquidating Trustee must be substantially consistent with the then current Budget, provided that the Liquidating Trustee may take action outside the Budget with the prior approval of the Trust Advisory Board (or the Litigation Subcommittee with respect to Section 6.5(c)(z)).

4.15 Until such time as the Liquidating Trust is dissolved in accordance with Section 27.14(d) of the Plan (or otherwise in accordance with this Agreement), the Liquidating Trust shall file with (or furnish to, as the case may be) the Securities and Exchange Commission (the "SEC") such periodic reports as the Liquidating Trust is required to file pursuant to the Exchange Act. In addition, until the Chapter 11 Cases are closed, the Liquidating Trust shall file Post-Confirmation Quarterly Summary Reports for each of the Chapter 11 Cases with the Bankruptcy Court and, thereafter, and until such time as the Liquidating Trust is dissolved in accordance with Section 27.14(d) of the Plan (or otherwise in accordance with this Agreement), the Liquidating Trust shall file with (or furnish to, as the case may be) the SEC or otherwise make available to the Liquidating Trust Beneficiaries quarterly reports that are substantially similar to such Post-Confirmation Quarterly Summary Reports.

ARTICLE V

TAX MATTERS

5.1 Liquidating Trustee's Tax Power for Debtors.

(a) For all taxable periods ended on or before December 31, 2009, the Liquidating Trustee shall have full and exclusive authority and responsibility in respect of all Taxes of the Debtors (including, without limitation, as the common parent or other agent of any consolidated, combined or unitary Tax group of which the Debtors were the agent), to the same extent as if the Liquidating Trustee were the Debtors. Without limiting the foregoing, each of the Debtors shall execute, on or prior to the Effective Date, a power of attorney authorizing the Liquidating Trustee to correspond with any Tax authority on behalf of such Debtor and to sign, collect, negotiate, settle, and administer Tax payments and Tax returns.

(b) In furtherance of the transfer of the Liquidating Trust Assets to the Liquidating Trust on the Effective Date, the Liquidating Trust shall be entitled to all Tax Refunds of the Debtors (and the Liquidating Trust shall bear responsibility for (i) all Tax liabilities of the Debtors for taxable years ended on or before December 31, 2009, to the extent not discharged by the Plan or provided for payment in

the Plan or the Global Settlement Agreement and (ii) WMI's obligations pursuant to Section 2.4 of the Global Settlement Agreement), it being understood that the Liquidating Trustee only shall have whatever rights the Debtors have pursuant to the terms of the Global Settlement Agreement, and the Liquidating Trustee shall be contractually bound to all restrictions in the Global Settlement Agreement with respect to Tax filings.

(c) Following the Effective Date, the Liquidating Trustee shall prepare and file (or cause to be prepared and filed), on behalf of the Debtors, all Tax Returns required to be filed or that the Liquidating Trustee otherwise deems appropriate, including the filing of amended Tax Returns or requests for refunds for all taxable periods ended on or before December 31, 2009.

5.2 Liquidating Trust Assets Treated as Owned by Liquidating Trust Beneficiaries. For all United States federal income tax purposes, all parties (including, without limitation, the Debtors, the Reorganized Debtors, the Liquidating Trustee, and the Liquidating Trust Beneficiaries) shall treat the transfer of the Liquidating Trust Assets to the Liquidating Trust as (1) a transfer of the Liquidating Trust Assets (subject to any obligations relating to those assets) directly to the Liquidating Trust Beneficiaries and, to the extent Liquidating Trust Assets are allocable to Disputed Claims, to the Liquidating Trust Claims Reserve, followed by (2) the transfer by such beneficiaries to the Liquidating Trust of the Liquidating Trust Assets (other than the Liquidating Trust Assets allocable to the Liquidating Trust Claims Reserve) in exchange for Liquidating Trust Interests. Accordingly, the Liquidating Trust Beneficiaries shall be treated for United States federal income tax purposes as the grantors and owners of their respective share of the Liquidating Trust Assets (other than such Liquidating Trust Assets as are allocable to the Liquidating Trust Claims Reserve, discussed below). The foregoing treatment shall also apply, to the extent permitted by applicable law, for state and local income tax purposes.

5.3 Tax Reporting.

(a) The Liquidating Trustee shall file Tax Returns for the Liquidating Trust treating the Liquidating Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a) and in accordance with this Article V. The Liquidating Trustee also will annually send to each holder of a Liquidating Trust Interest a separate statement regarding the receipts and expenditures of the Liquidating Trust as relevant for United States federal income tax purposes and will instruct all such holders to use such information in preparing their United States federal income tax returns or to forward the appropriate information to such holder's underlying beneficial holders with instructions to utilize such information in preparing their United States federal income tax returns. The Liquidating Trustee shall also file (or cause to be filed) any other statement, return or disclosure relating to the Liquidating Trust that is required by any governmental unit.

(b) On or before the Effective Date, the Debtors shall provide the Liquidating Trustee with a good-faith valuation of the Tax Refunds as of the Effective Date or shall otherwise arrange for such a valuation to be provided to the Liquidating

Trustee as soon as practicable after the Effective Date by such third party professionals as the Debtors deem appropriate. The Liquidating Trustee, in consultation with the Trust Advisory Board, will then in good faith value all other Liquidating Trust Assets, and shall make all such values (including the Tax Refund values) publicly available from time to time (by posting on a website or otherwise), to the extent relevant, and such values shall be used consistently by all parties to the Liquidating Trust (including, without limitation, the Debtors, the Liquidating Trustee, and Liquidating Trust Beneficiaries) for all United States federal income tax purposes.

(c) Allocations of Liquidating Trust taxable income among the Liquidating Trust Beneficiaries (other than taxable income allocable to the Liquidating Trust Claims Reserve) shall be determined by reference to the manner in which an amount of Cash representing such taxable income would be distributed (were such cash permitted to be distributed at such time) if, immediately prior to such deemed distribution, the Liquidating Trust had distributed all its assets (valued at their tax book value, and other than assets allocable to the Liquidating Trust Claims Reserve) to the holders of the Liquidating Trust Interests, adjusted for prior taxable income and loss and taking into account all prior and concurrent distributions from the Liquidating Trust. Similarly, taxable loss of the Liquidating Trust shall be allocated by reference to the manner in which an economic loss would be borne immediately after a hypothetical liquidating distribution of the remaining Liquidating Trust Assets. The tax book value of the Liquidating Trust Assets for purposes of this Section 5.3(c) shall equal their fair market value on the Effective Date, adjusted in accordance with tax accounting principles prescribed by the IRC, the applicable Treasury Regulations, and other applicable administrative and judicial authorities and pronouncements.

(d) Subject to definitive guidance from the IRS or a court of competent jurisdiction to the contrary (including the receipt by the Liquidating Trustee of a private letter ruling if the Liquidating Trustee so requests one, or the receipt of an adverse determination by the IRS upon audit if not contested by the Liquidating Trustee), the Liquidating Trustee shall (i) timely elect to treat any Liquidating Trust Claims Reserve as a "disputed ownership fund" governed by Treasury Regulation section 1.468B-9, and (ii) to the extent permitted by applicable law, report consistently with the foregoing for state and local income tax purposes. All parties (including the Liquidating Trustee, the Debtors, and the Liquidating Trust Beneficiaries) shall report for United States federal, state and local income tax purposes consistently with the foregoing.

(e) The Liquidating Trustee shall be responsible for payment, out of the Liquidating Trust Assets, of any Taxes imposed on the Liquidating Trust or its assets, including the Liquidating Trust Claims Reserve. In the event, and to the extent, any Cash retained on account of Disputed Claims in the Liquidating Trust Claims Reserve is insufficient to pay the portion of any such Taxes attributable to the taxable income arising from the assets allocable to, or retained on account of, Disputed Claims (including any income that may arise upon the distribution of the assets from the Liquidating Trust Claims Reserve), such Taxes may be (i) reimbursed from any subsequent Cash amounts retained on account of Disputed Claims, or (ii) to the extent

such Disputed Claims have subsequently been resolved, deducted from any amounts otherwise distributable by the Liquidating Trustee as a result of the resolution of such Disputed Claims.

(f) The Liquidating Trustee may request an expedited determination of Taxes of the Liquidating Trust, including the Liquidating Trust Claims Reserve, or the Debtors under section 505(b) of the Bankruptcy Code for all Tax Returns filed for, or on behalf of, the Liquidating Trust or the Debtors for all taxable periods through the dissolution of the Liquidating Trust.

5.4 Tax Withholdings by Liquidating Trustee. The Liquidating Trustee may withhold and pay to the appropriate Tax Authority all amounts required to be withheld pursuant to the IRC or any provision of any foreign, state or local tax law with respect to any payment or distribution to the holders of Liquidating Trust Interests. The Liquidating Trustee may place funds in an escrow account pursuant to an agreement with the IRS (or otherwise) in an amount sufficient to satisfy its withholding obligations pursuant to sections 1441 and 1442 of the IRC with respect to payments or distributions to holders of Allowed WMB Senior Note Claims and Accepting Non-Filing WMB Senior Note Holders pursuant to Article XXI of the Plan, pending resolution (by seeking a private letter ruling or other satisfactory determination from the IRS) of the question of whether withholding pursuant to such provisions is required or not on such payments or distributions. All such amounts withheld and paid to the appropriate Tax Authority (or placed in escrow pending resolution of the need to withhold) shall be treated as amounts distributed to such holders of Liquidating Trust Interests for all purposes of the Trust Agreement. The Liquidating Trustee shall be authorized to collect such tax information from the holders of Liquidating Trust Interests (including, without limitation, social security numbers or other tax identification numbers) as in its sole discretion the Liquidating Trustee deems necessary to effectuate the Plan, the Confirmation Order, and the Trust Agreement. In order to receive distributions under the Plan, all holders of Liquidating Trust Interests (including, without limitation, holders of Allowed Senior Notes Claims, Allowed Senior Subordinated Notes Claims, Allowed CCB-1 Guarantees Claims, Allowed CCB-2 Guarantees Claims, Allowed PIERS Claims, Allowed Late-Filed Claims, Allowed General Unsecured Claims, Allowed WMB Senior Notes Claims, Allowed Preferred Interests, Allowed Common Interests, holders of Dime Warrants, and Accepting Non-Filing WMB Senior Note Holders, who in each case, deliver a release in accordance with the provisions of Section 41.6 of the Plan) shall be required to identify themselves to the Liquidating Trustee and provide tax information and the specifics of their holdings, to the extent the Liquidating Trustee deems appropriate in the manner and in accordance with the procedures from time to time established by the Liquidating Trustee for these purposes. This identification requirement generally applies to all holders, including those who hold their Claims in "street name." The Liquidating Trustee may refuse to make a distribution to any holder of a Liquidating Trust Interest that fails to furnish such information in a timely fashion, and until such information is delivered may treat such holder's Liquidating Trust Interests as disputed; provided, however, that if such information is not furnished to the Liquidating Trustee within six (6) months of the

original request to furnish such information (the "Withholding Deadline"), no further distributions shall be made to the holder of such Liquidating Trust Interest; and, provided, further, that, upon the delivery of such information by a holder of a Liquidating Trust Interest prior to the Withholding Deadline, the Liquidating Trustee shall make such distribution to which the holder of the Liquidating Trust Interest is entitled, without additional interest occasioned by such holder's delay in providing tax information; and, provided, further that, if the Liquidating Trustee fails to withhold in respect of amounts received or distributable with respect to any such holder and the Liquidating Trustee is later held liable for the amount of such withholding, such holder shall reimburse the Liquidating Trustee for such liability (to the extent such amounts were actually distributed to such holder).

ARTICLE VI

POWERS OF AND LIMITATIONS ON THE TRUSTEES

6.1 Liquidating Trustee.

(a) "Liquidating Trustee" means William C. Kosturos so long as he continues in office, and all other individuals who have been duly elected and qualify as liquidating trustees of the Liquidating Trust hereunder pursuant to Section 1.4 or Article VIII hereof, but shall not include the Resident Trustee. Subject to Article VIII hereof, the Liquidating Trustee shall hold office until the termination of the Liquidating Trust in accordance with the terms set forth herein. References herein to the Liquidating Trustee shall refer to the individual or individuals serving as the Liquidating Trustee solely in its or their capacity as trustees hereunder.

(b) Subject to the express limitations set forth herein, any actions of the Liquidating Trustee contemplated by this Trust Agreement shall be decided and conducted by the Liquidating Trustee only.

6.2 Powers of the Liquidating Trustee.

(a) Pursuant to the terms of the Plan, the Confirmation Order and this Trust Agreement, the Liquidating Trustee shall have various powers, duties and responsibilities concerning the prosecution of certain litigation claims, the disposition of assets, the resolution of claims, and numerous other obligations relating to maximizing the proceeds of the Liquidating Trust Assets and the administration of the Liquidating Trust.

(b) The Liquidating Trustee shall have only such rights, powers and privileges expressly set forth in the Confirmation Order, the Plan and this Trust Agreement and as otherwise provided by applicable law. Subject to the Confirmation Order, the Plan, the Global Settlement Agreement and the provisions of this Trust Agreement, including, without limitation, the oversight and approvals by and of the Trust Advisory Board, the Litigation Subcommittee and the Bankruptcy Court provided

herein, the Liquidating Trustee shall be expressly authorized to undertake the following actions (and, except with respect to Section 6.2(b)(iii) and Section 6.2(b)(vi), to delegate such authority to such representatives or agents of the Liquidating Trustee as the Liquidating Trustee may nominate from time to time):

(i) to open bank accounts, and to hold, manage, convert to Cash, and distribute the Liquidating Trust Assets, including prosecuting and resolving the Claims and Causes of Action belonging to the Liquidating Trust;

(ii) to hold the Liquidating Trust Assets for the benefit of the Liquidating Trust Beneficiaries, whether their Claims or Interests are Allowed on or after the Effective Date;

(iii) in the Liquidating Trustee's reasonable business judgment, to investigate, prosecute, settle and/or abandon rights, Causes of Action, Claims, or litigation of the Liquidating Trust, including, without limitation, Avoidance Actions;

(iv) to monitor and enforce the implementation of the Plan;

(v) to file all Tax and regulatory forms, returns, reports, and other documents required with respect to the Liquidating Trust;

(vi) in the Liquidating Trustee's reasonable business judgment, to object to Claims, and manage, control, prosecute, and/or settle on behalf of the Liquidating Trust, objections to Claims on account of which the Liquidating Trustee (as Disbursing Agent) will be responsible (if Allowed) for making distributions under the Plan;

(vii) to take all actions and create any document necessary to implement the Plan;

(viii) to hold, manage, and distribute Cash or non-Cash Liquidating Trust Assets obtained through the exercise of its power and authority;

(ix) to act as a signatory to the Debtors for all purposes, including those associated with the novation of contracts or other obligations arising out of the sales of the Debtors' assets; and

(x) to take all necessary actions and file all appropriate motions to obtain an order closing the Chapter 11 Cases.

(c) In all circumstances, the Liquidating Trustee shall comply with all of the Debtors' obligations under the Global Settlement Agreement and in accordance with applicable law and shall otherwise act in the best interest of all Liquidating Trust Beneficiaries, and the Liquidating Trustee shall act in furtherance of the purpose of the Liquidating Trust. With the consent of the Trust Advisory Board, the Liquidating Trustee may serve on the board of directors of any subsidiary of the Liquidating Trust, provided the subsidiary's objective is consistent with that of the Liquidating Trust (i.e. to sell its assets and distribute the proceeds in liquidation) (the "Objective").

(d) Except as otherwise provided in this Trust Agreement, the Liquidating Trustee will not be required to obtain the order or approval of the Bankruptcy Court, or any other court of competent jurisdiction in, or account to the Bankruptcy Court or any other court of competent jurisdiction for, the exercise of any right, power or privilege conferred hereunder. Notwithstanding the foregoing, where the Liquidating Trustee determines, in its reasonable discretion, that it is necessary, appropriate or desirable, the Liquidating Trustee will have the right to submit to the Bankruptcy Court any question or questions regarding any specific action proposed to be taken by the Liquidating Trustee with respect to this Trust Agreement, the Liquidating Trust, or the Liquidating Trust Assets, including, without limitation, the administration and distribution of the Liquidating Trust Assets and the termination of the Liquidating Trust. Pursuant to the Plan, the Bankruptcy Court has retained jurisdiction for such purposes and may approve or disapprove any such proposed action upon motion by the Liquidating Trustee.

6.3 Limitations on Liquidating Trustee.

(a) The Liquidating Trustee shall, on behalf of the Liquidating Trust, hold the Liquidating Trust out as a trust in the process of liquidation and not as an investment company. The Liquidating Trustee shall be restricted to the liquidation of the Liquidating Trust Assets on behalf, and for the benefit, of the Liquidating Trust Beneficiaries and the distribution and application of Liquidating Trust Assets for the purposes set forth in, and the conservation and protection of the Liquidating Trust Assets and the administration thereof in accordance with, the provisions of this Trust Agreement, the Plan and the Confirmation Order.

(b) Notwithstanding anything in this Trust Agreement to the contrary, and subject to any powers that are expressly vested in the Litigation Subcommittee pursuant to this Trust Agreement, the Liquidating Trustee shall submit to the Trust Advisory Board for its approval the following matters and any other matters that expressly require the approval of the Trust Advisory Board pursuant to the other terms of this Trust Agreement:

(i) Any transaction involving the sale, assignment, transfer or abandonment of any Liquidating Trust Asset or Assets having a value in excess of $500,000.00;

(ii) Any incurrence of any cost, expense or fee in excess of $500,000.00 (covering services to be rendered or products utilized by the Liquidating Trustee within a one month period);

(iii) Subject to Section 6.8(b), any determination to retain Trust Professionals and any compensation arrangements for such Trust Professionals, it being understood that the Liquidating Trustee initially intends to engage Weil, Gotshal & Manges LLP, Quinn Emanuel Urquhart & Sullivan, LLP and such other counsel as may be appointed by the Trust Advisory Board from time to time to litigate Disputed Claims;

(iv) Determination of the amount and timing of any distribution to the Liquidating Trust Beneficiaries;

(v) Any determination to initiate lawsuits or proceedings; and

(vi) The dissolution of the Liquidating Trust.

The foregoing shall not limit the Liquidating Trustee's ability to make determinations and take actions regarding compliance with tax withholding requirements (including remittances).

(c) The Liquidating Trustee shall submit any proposed settlement, disposition or abandonment of any Claims asserted against the Debtors or the Debtors' estates to the Trust Advisory Board or to the Litigation Subcommittee, as applicable, for consideration and approval as provided in this Section 6.3(c) and in Section 6.6(a), other than (i) any proposed final settlement, disposition or abandonment that was made or accepted by the Debtors prior to the Effective Date, the principal terms of which have been evidenced in writing (whether or not such offer or acceptance is conditioned upon approval of any supervising authority), and (ii) any settlement, disposition or abandonment of a GUC Claim (as defined below) where the proposed settlement, disposition or abandonment amount with respect to such GUC Claim is $2,000,000.00 or less (each such GUC Claim, a "De Minimis GUC Claim"). Proposed settlements, dispositions or abandonments of (A) Claims asserted against the Liquidating Trust (other than de Minimis GUC Claims), (B) Claims previously asserted against the Debtors or the Debtors' estates within Class 12 (General Unsecured Claims) of the Plan (the "GUC Claims") or (C) Claims, that if litigated, could result in the classification of such Claim within Class 12 (General Unsecured Claims), including claims related to Dime Warrants, in each case, shall be submitted to the Trust Advisory Board for consideration and approval and the Trust Advisory Board shall promptly, and in any event within twenty (20) Business Days of such submission, make a determination regarding the proposed settlement, disposition or abandonment. Subject to the provisions of Section 6.6(a) hereof, proposed settlements, abandonments or dispositions of Claims asserted against the Liquidating Trust (other than De Minimis GUC Claims) or claims

previously asserted against the Debtors or the Debtors' estates within Class 17A (WMB Senior Notes Claims), Class 17B (WMB Subordinated Notes Claims) and Class 18 (Subordinated Claims) of the Plan (collectively, the "Junior Disputed Claims"), shall be submitted to the Litigation Subcommittee for the consideration and approval of the Litigation Subcommittee (provided, however, that such Claims shall not be submitted to the Litigation Subcommittee if, when litigated, such litigation could result in the classification of such Claim within Class 12 (General Unsecured Claims)) and the Litigation Subcommittee shall promptly, and in any event within twenty (20) Business Days of such submission, make a determination regarding the proposed settlement, disposition or abandonment. If the Litigation Subcommittee does not approve, within twenty (20) Business Days of its submission to the Litigation Subcommittee, a settlement offer that the Liquidation Trustee believes in good faith should be accepted, the Liquidating Trustee may submit the settlement offer to the Trust Advisory Board for consideration and approval.

6.4 Establishment of Trust Advisory Board.

(a) The "Trust Advisory Board" means the board to be appointed in accordance with, and to exercise the duties set forth in, this Trust Agreement, which duties shall be (i) to oversee the liquidation and distribution of the Liquidating Trust Assets by the Liquidating Trustee in accordance with this Trust Agreement, the Plan and the Confirmation Order, (ii) to approve (or withhold approval) of those matters submitted to it for approval in accordance with the terms of this Trust Agreement, and (iii) to remove and appoint any successor to the Liquidating Trustee as provided for in this Trust Agreement.

(b) The Trust Advisory Board initially shall be comprised of (A) three (3) members, to be selected by the Creditors' Committee (together with any successors, the "CC Members"); (B) three (3) members, to be selected by the Equity Committee (together with any successors, the "EC Members"); and (C) one (1) member, to be selected by the Creditors' Committee and approved by the Equity Committee, such approval not to be unreasonably withheld (together with any successors, the "CC-EC Member"). The initial members of the Trust Advisory Board are set forth on Annex A hereto. Each member of the Trust Advisory Board shall have a fiduciary duty to act in the best interests of the Liquidating Trust Beneficiaries as a whole.

(c) If, during the term of the Liquidating Trust, the aggregate outstanding amount of the Liquidating Trust Interests representing (i) Allowed Claims, (ii) the greater of Intercreditor Interest Claims or Postpetition Interest Claims in respect of such Allowed Claims, (iii) Disputed Claims, (iv) the greater of Intercreditor Interest Claims or Postpetition Interest Claims in respect of such Disputed Claims, and (v) contingent, unliquidated Claims, is $50,000,000.00 or less, (X) one (1) CC Member who is not a CC Subcommittee Member (as defined below) shall without any further action by the Liquidating Trustee, the Trust Advisory Board, the Bankruptcy Court or any other Person, resign, and (Y) within twenty (20) Business Days of such event, the EC Members shall appoint a new member of the Trust Advisory Board and notify the Liquidating

Trustee of the identity of the new member in writing. Solely for the purposes of this subsection (c), (A) the amount of any Disputed Claim shall be (1) the liquidated amount set forth in the filed proof of Claim relating to such Disputed Claim, (2) if the Bankruptcy Court has estimated the amount of the Disputed Claim pursuant to Section 502 of the Bankruptcy Code in an amount that constitutes and represents the maximum amount in which such Claim may ultimately become an Allowed Claim (such estimated amount, the "Disputed Claim Estimate"), the Disputed Claim Estimate, or (3) if the Liquidating Trustee and the holder of such Disputed Claim have agreed upon an amount (the "Agreed Amount"), the Agreed Amount and (B) the amount of any contingent, unliquidated Claim shall be the amount agreed by a majority of the Trust Advisory Board and a majority of the Litigation Subcommittee or, in the event that a majority of the Trust Advisory Board and a majority of the Litigation Subcommittee do not agree as to the amount within twenty (20) Business Days, the amount estimated by the Bankruptcy Court at the request of any member of the Trust Advisory Board or the Litigation Subcommittee. For the purposes of this subsection (c), Disputed Claims and contingent, unliquidated Claims shall include any claims that are withdrawn as of the date hereof but that, pursuant to stipulation with the Debtors and by order of the Bankruptcy Court, may be refiled and asserted in Class 18 (Subordinated Claims) of the Plan.

(d) If, during the term of the Liquidating Trust, all Liquidating Trust Interests representing Allowed Claims and Postpetition Interest Claims in respect of such Allowed Claims are paid in full, (X) any remaining CC Members shall be removed immediately without any further action by the Liquidating Trustee, the Trust Advisory Board, the Bankruptcy Court or any other Person, and (Y) within twenty (20) Business Days of such event, the remaining members of the Trust Advisory Board shall (i) appoint two (2) new members of the Trust Advisory Board and notify the Liquidating Trustee in writing of the identity of such members, or (ii) elect to continue without such replacement members and so notify the Liquidating Trustee in writing.

(e) The authority of the members of the Trust Advisory Board shall be effective as of the Effective Date and shall remain and continue in full force and effect until the Liquidating Trust is dissolved in accordance with Section 3.2 hereof. The service of the members of the Trust Advisory Board shall be subject to the following:

(i) subject to Section 6.4(c) and Section 6.4(d), the members of the Trust Advisory Board shall serve until death or resignation pursuant to clause (ii) below, or removal pursuant to clause (iii) below;

(ii) a member of the Trust Advisory Board may resign at any time by providing a written notice of resignation to the remaining members of the Trust Advisory Board. Such resignation shall be effective when a successor is appointed as provided herein;

(iii) a member of the Trust Advisory Board may be removed by the unanimous vote of the other members for (a) fraud or willful misconduct in connection with the affairs of the Liquidating Trust or (b) cause, which shall include a breach of fiduciary duty other than as specified in the foregoing clause (a). Such removal shall be effective immediately upon such vote.

(iv) subject to Section 6.4(c) and Section 6.4(d), in the event of a vacancy in a member's position (whether by removal, death or resignation), a new member may be appointed, (A) in the case of a CC Member, by the other CC Member(s) or, if there are no remaining CC Members, by (1) the Creditors' Committee as notified in writing to the Trust Advisory Board and the Liquidating Trustee within five (5) Business Days, or (2) if the Creditors' Committee has been dissolved, the Liquidating Trustee as notified in writing to the Trust Advisory Board within five (5) Business Days, (B) in the case of an EC Member, by the other EC Members, or (C) in the case of the CC-EC Member, (i) by the other CC Member(s) subject to the approval of the EC Members (such approval not to be unreasonably withheld), or (ii) if there is no remaining CC Member, by the Creditors' Committee subject to the approval of the EC members (such approval not to be unreasonably withheld) as notified in writing to the Trust Advisory Board and the Liquidating Trustee within five (5) Business Days, or (iii) if there is no remaining CC Member and if the Creditors' Committee has been dissolved, by the Liquidating Trustee as notified in writing to the Trust Advisory Board within five (5) Business Days. In each case, the appointment of a successor member of the Trust Advisory Board (including any appointment pursuant to Section 6.4(c) and Section 6.4(d)) shall be evidenced by the filing with the Bankruptcy Court by the Liquidating Trustee of a notice of appointment, which notice shall include the name, address, and telephone number of the successor member of the Trust Advisory Board; and

(v) immediately upon appointment of any successor member of the Trust Advisory Board, all rights, powers, duties, authority, and privileges of the predecessor member of the Trust Advisory Board hereunder shall be vested in and undertaken by the successor member of the Trust Advisory Board without any further act; and the successor member of the Trust Advisory Board shall not be liable personally for any act or omission of the predecessor member of the Trust Advisory Board.

(f) Each member of the Trust Advisory Board shall designate (i) one or more representatives who shall attend meetings of and participate in other

activities of the Trust Advisory Board and (ii) an alternate representative to attend meetings and participate in other activities of the Trust Advisory Board when the representatives designated pursuant to clause (i) above are unavailable.

(g) Notwithstanding anything in this Trust Agreement to the contrary, the Trust Advisory Board shall not take any action which will cause the Liquidating Trust to fail to qualify as a "liquidating trust" for United States federal income tax purposes.

(h) A quorum for meetings of the Trust Advisory Board shall consist of a majority of the non-recused, voting members of the Trust Advisory Board then serving; provided, however, that, for purposes of determining whether a quorum is present at such a meeting, a voting member of the Trust Advisory Board shall be deemed present if a representative of the member is attending in person, by telephone or by proxy.

(i) Except as expressly provided herein, the affirmative vote of a majority of the non-recused, voting members of the Trust Advisory Board shall be the act of the Trust Advisory Board with respect to any matter that requires the determination, consent, approval or agreement of such board. If an equal number of the non-recused voting members of the Trust Advisory Board vote for and against a particular matter, the Liquidating Trustee shall only in such circumstances have the authority to cast a vote with respect to such matter. Any or all of the members of the Trust Advisory Board may participate in a regular or special meeting by, or conduct the meeting through the use of, conference telephone or similar communications equipment by means of which all persons participating in the meeting may hear each other, in which case any required notice of such meeting may generally describe the arrangements (rather than or in addition to the place) for the holding thereof. Any member of the Trust Advisory Board participating in a meeting by this means is deemed to be present in person at the meeting. In all matters submitted to a vote of the Trust Advisory Board, each Trust Advisory Board member shall be entitled to cast one vote, which vote shall be cast personally by such Trust Advisory Board member or by proxy. In a matter in which the Liquidating Trustee cannot obtain direction or authority from the Trust Advisory Board, the Liquidating Trustee may file a motion requesting such direction or authority from the Bankruptcy Court; provided, however, that any member of the Trust Advisory Board may oppose such motion.

(j) A Trust Advisory Board member and its representative shall be recused from the Trust Advisory Board's deliberations and votes on any and all matters as to which such member has a conflicting interest. If a Trust Advisory Board member or its representative does not recuse itself from any such matter, that Trust Advisory Board member and its representative may be recused from such matter by the majority vote of the remaining, voting members of the Trust Advisory Board that are not recused from the matter.

(k) Any action required or permitted to be taken by the Trust Advisory Board at a meeting may be taken without a meeting if the action is taken by unanimous written consent of the Trust Advisory Board as evidenced by one or more written consents describing the action taken, signed by the Trust Advisory Board and filed with the minutes or proceedings of the Trust Advisory Board.

(l) The members of the Trust Advisory Board shall be compensated as set forth in the attached Annex B from the Administrative Funding. Any member of the Trust Advisory Board shall also be reimbursed by the Liquidating Trustee from the Administrative Funding for its actual, reasonable out-of-pocket expenses incurred for serving on such board and for reasonable legal fees incurred by any member of the Trust Advisory Board in their capacity as such with respect to outside counsel in the same manner and priority as the compensation and expenses of the Liquidating Trustee under this Trust Agreement, in accordance with the Budget, after submission of reasonably detailed receipts or invoices evidencing such expenses and the approval of such expenses by the Bankruptcy Court. Except as provided for in this Section 6.4, the members of the Trust Advisory Board shall not be entitled to receive any other form of compensation for their services provided as such members. The Budget shall include a reserve for the fees and expenses of the Trust Advisory Board.

6.5 The Litigation Subcommittee

(a) The "Litigation Subcommittee" means the subcommittee of the Trust Advisory Board appointed in accordance with Section 6.5(b) of this Agreement to exercise the duties set forth in Section 6.5(c) of this Trust Agreement.

(b) The Litigation Subcommittee initially shall be comprised of (A) one (1) member, to be selected by the Creditors' Committee from the CC Members (together with any successors, the "CC Subcommittee Member"); and (B) two (2) members, to be selected from the EC Members (together with any successors, the "EC Subcommittee Members"). The initial members of the Litigation Subcommittee are set forth on Annex A hereto. Each member of the Litigation Subcommittee shall (i) continue to act as a member of the Litigation Subcommittee until he or she is no longer a member of the Trust Advisory Board, and (ii) have a fiduciary duty to act in the best interests of the Liquidating Trust Beneficiaries as a whole.

(c) The Litigation Subcommittee shall oversee (i) the prosecution of, subject to the exculpation and release provisions of the Plan, (A) claims against present and former officers and directors of the Debtors for actions arising during the period prior to the Petition Date (the "D&O Claims"), (B) claims against professionals and representatives retained by the Debtors with respect to conduct that occurred prior to the Petition Date; and (C) claims based on conduct that occurred prior to the commencement of the Debtors' bankruptcy cases against third-parties for any non-contractual breach of duty to WMI, including, but not limited to, antitrust claims and business tort claims (collectively categories (A), (B), and (C) are the "Recovery Claims") and (ii) the defense of Junior Disputed Claims including Disputed Claims of WMB

Noteholders for misrepresentation, which Disputed Claims are classified in Class 18 (Subordinated Claims) pursuant to the Plan (the "WMB Claims"); provided, however, that the Litigation Subcommittee shall not pursue business tort Claims that were released against JPMC and its Related Persons pursuant to the Global Settlement Agreement. In connection with the foregoing, and subject to the review and approval of the Bankruptcy Court, upon notice and a hearing, the Litigation Subcommittee shall have discretion over the following matters: (x) retention of counsel and professionals in conjunction with the Recovery Claims and the Junior Disputed Claims; provided, however, that the prosecution of any D&O Claims shall be the responsibility of Klee, Tuchin, Bogdanoff, & Stern LLP and the defense of any Junior Disputed Claims shall be the responsibility of Weil, Gotshal & Manges LLP, Quinn Emanuel Urquhart & Sullivan, LLP and such other counsel as may be appointed from time to time; (y) subject to the provisions set forth in Section 6.3(c) and Section 6.6(a) hereof, prosecution and settlement of the Recovery Claims; and (z) establishment of budgets and expenditure of the first Ten Million Dollars ($10,000,000.00) of the Litigation Funding and of the second Ten Million dollars ($10,000,000) if authorized by the Trust Advisory Board. In the event that all of the Litigation Funding has been spent, the Litigation Subcommittee may request additional funds from the Trust Advisory Board which shall have the sole and absolute discretion as to whether to allocate such additional funds. To the extent the Litigation Funding or any additional funds that are allocated to the Litigation Subcommittee are unused, such funds shall be distributed by the Liquidating Trust in accordance with the terms and conditions of the Plan.

(d) Any proceeds that are obtained with respect to any Recovery Claims (whether by settlement, judgment or otherwise) shall be retained by the Liquidating Trust and distributed by the Liquidating Trustee in accordance with the terms and conditions of this Liquidating Trust Agreement and the Plan.

(e) If any member of the Litigation Subcommittee is not a natural person, it shall designate (i) one or more representatives who shall attend meetings of and participate in other activities of the Litigation Subcommittee and (ii) an alternate representative to attend meetings and participate in other activities of the Litigation Subcommittee when the representatives designated pursuant to clause (i) above are unavailable.

(f) Notwithstanding anything in this Trust Agreement to the contrary, the Litigation Subcommittee shall not take any action which will cause the Liquidating Trust to fail to qualify as a "liquidating trust" for United States federal income tax purposes.

(g) A quorum for meetings of the Litigation Subcommittee shall consist of a majority of the non-recused, voting members of the Litigation Subcommittee then serving; provided, however, that, for purposes of determining whether a quorum is present at such a meeting, a voting member of the Litigation Subcommittee shall be deemed present if a representative of the member is attending in person, by telephone or by proxy.

(h) Except as expressly provided herein, the affirmative vote of a majority of the non-recused, voting members of the Litigation Subcommittee shall be the act of the Litigation Subcommittee with respect to any matter that requires the determination, consent, approval or agreement of such subcommittee. If an equal number of the non-recused voting members of the Litigation Subcommittee vote for and against a particular matter, the Liquidating Trustee shall only in such circumstances have the authority to cast a vote with respect to such matter. Any or all of the members of the Litigation Subcommittee may participate in a regular or special meeting by, or conduct the meeting through the use of, conference telephone or similar communications equipment by means of which all persons participating in the meeting may hear each other, in which case any required notice of such meeting may generally describe the arrangements (rather than or in addition to the place) for the holding thereof. Any member of the Litigation Subcommittee participating in a meeting by this means is deemed to be present in person at the meeting. In all matters submitted to a vote of the Litigation Subcommittee, each Litigation Subcommittee member shall be entitled to cast one vote, which vote shall be cast personally by such Litigation Subcommittee member or such member's representative as appointed pursuant to Section 6.5(e). In a matter in which the Liquidating Trustee cannot obtain direction or authority from the Litigation Subcommittee, the Liquidating Trustee may file a motion requesting such direction or authority from the Bankruptcy Court; provided, however, that any member of the Litigation Subcommittee may oppose such motion.

(i) A Litigation Subcommittee member and its representative shall be recused from the Litigation Subcommittee's deliberations and votes on any and all matters as to which such member has a conflicting interest. If a Litigation Subcommittee member or its representative does not recuse itself from any such matter, that Litigation Subcommittee member and its representative may be recused from such matter by the majority vote of the remaining, voting members of the Litigation Subcommittee that are not recused from the matter.

(j) Any action required or permitted to be taken by the Litigation Subcommittee at a meeting may be taken without a meeting if the action is taken by unanimous written consent of the Litigation Subcommittee as evidenced by one or more written consents describing the action taken, signed by the Litigation Subcommittee and filed with the minutes or proceedings of the Litigation Subcommittee.

(k) The members of the Litigation Subcommittee shall be compensated as set forth in the attached Annex B from the Litigation Funding. Any member of the Litigation Subcommittee shall also be reimbursed by the Liquidating Trustee from the Litigation Funding for its actual, reasonable out-of-pocket expenses incurred for serving on such committee and for reasonable legal fees incurred by any member of the Litigation Subcommittee in their capacity as such with respect to outside counsel in the same manner and priority as the compensation and expenses of the Liquidating Trustee under this Trust Agreement, in accordance with the Budget, after submission of reasonably detailed receipts or invoices evidencing such expenses and the approval of such expenses by the Bankruptcy Court. Except as provided for in this

Section 6.5, the members of the Litigation Subcommittee shall not be entitled to receive any other form of compensation for their services as such members. The Budget shall include a reserve for the fees and expenses of the Litigation Subcommittee.

6.6 Resolution of Claims.

(a) Except as otherwise provided in Section 6.3(c), the Trust Advisory Board shall have the authority, subject to Bankruptcy Court review and approval, to settle (A) all GUC Claims (other than any De Minimis GUC Claim), (B) all Claims relating to Dime Warrants, and (C) all Claims that, if litigated, could result in the classification of such Claim as a GUC Claim (other than any De Minimis GUC Claim). Notwithstanding the foregoing, and except as otherwise provided in Section 6.3(c), the Litigation Subcommittee shall have authority to settle all Recovery Claims and the Junior Disputed Claims, subject to Bankruptcy Court review and approval; provided, however, that, from and after the expiry of the six (6) month period beginning on the Effective Date, both the Trust Advisory Board and the Litigation Subcommittee shall have the authority to settle all Recovery Claims and the Junior Disputed Claims, subject to Bankruptcy Court review and approval; provided further that the Litigation Subcommittee shall not settle a Junior Disputed Claim if such settlement would result in the classification of all or any part of such Claim as a GUC Claim.

(b) The Trust Advisory Board shall have the authority to retain counsel and professionals in conjunction with the GUC Claims (other than any De Minimis GUC Claim), subject to Bankruptcy Court review and approval. The fees and expenses of such counsel and professionals shall be deducted from the Administrative Funding.

(c) Except as provided in the proviso to Section 6.5(c)(x), the Litigation Subcommittee shall have authority to retain counsel and professionals in conjunction with the Recovery Claims and the Junior Disputed Claims, subject to Bankruptcy Court review and approval. The fees and expenses of counsel and professionals for the Recovery Claims shall be deducted from the Litigation Funding. The fees and expenses of counsel for the Junior Disputed claims shall be paid from the Administrative Funding and not deducted from the Litigation Funding.

(d) Notwithstanding any other provision hereof, if any portion of a Claim is disputed, no payment or distribution provided hereunder shall be made on account of such Claim unless and until such Disputed Claim becomes an Allowed Claim.

(e) To the extent that a Disputed Claim ultimately becomes an Allowed Claim, distributions (if any) shall be made to the holder of such Allowed Claim in accordance with the provisions of the Plan and this Trust Agreement.

(f) In connection with the exercise of the powers that are vested in the Trust Advisory Board and the Litigation Subcommittee pursuant to Section 6.6(a), the Trust Advisory Board and the Litigation Subcommittee, as applicable, may at

any time request that the Bankruptcy Court estimate any GUC Claim or Junior Disputed Claim pursuant to section 502(c) of the Bankruptcy Code regardless of whether any of the Debtors or any other Person previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including, without limitation, during the pendency of any appeal relating to any such objection. In the event that the Bankruptcy Court estimates any GUC Claim or Junior Disputed Claim, the amount so estimated shall constitute either the allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on the amount of such Claim the Trust Advisory Board or the Litigation Subcommittee, as applicable, may pursue supplementary proceedings to object to the allowance of such Claim. All of the aforementioned objection, estimation and resolution procedures are intended to be cumulative and not exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court.

(g) The amount of any Liquidating Trust Assets allocable to, or retained on account of, any Disputed Claim in the Liquidating Trust Claims Reserve shall be determined based on the estimation of such Disputed Claim pursuant to Section 6.6(f) hereof or as otherwise agreed in writing by the Trust Advisory Board or the Litigation Subcommittee, as applicable, and the holder of such Claim.

6.7 Actions Taken on Other Than A Business Day. In the event that any payment or act under the Plan or this Trust Agreement is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

6.8 Agents, Employees and Professionals.

(a) The Liquidating Trust may, but shall not be required to, from time to time enter into contracts with, consult with and retain employees, officers and independent contractors, including attorneys, accountants, appraisers, disbursing agents or other parties deemed by the Liquidating Trustee to have qualifications necessary or desirable to assist in the proper administration of the Liquidating Trust (collectively, the "Trust Professionals"), on such terms as the Liquidating Trustee deems appropriate. The Liquidating Trustee may assume existing contracts and/or leases to which WMI is a party as of the date hereof including, without limitation, employment agreements, or may enter into new arrangements on substantially similar terms. None of the professionals that represented parties-in-interest in the Chapter 11 Cases shall be precluded from being engaged by the Liquidating Trustee solely on account of their service as a professional for such parties-in-interest prior to the Effective Date. Without limiting the foregoing, it is understood and agreed that the Liquidating Trustee may elect to hire Alvarez & Marsal North America, LLC and/or any of its Affiliates (together "A&M") notwithstanding that the Liquidating Trustee may be a member or Managing

Director of A&M. The Liquidating Trustee shall not be subject to any liability whatsoever on account of the hiring of or the decision to hire A&M as a Trust Professional, notwithstanding the Liquidating Trustee's relationship with A&M.

(b) After the Effective Date, Trust Professionals shall be required to submit reasonably detailed invoices on a monthly basis to the Liquidating Trustee and the Trust Advisory Board, including in such invoices a description of the work performed, who performed such work, and if billing on an hourly basis, the hourly rate of such person, plus an itemized statement of expenses. Subject to the approval of the Bankruptcy Court, the Liquidating Trustee shall pay such invoices thirty (30) days after such invoices are approved by the Bankruptcy Court. In the event of any dispute concerning the entitlement to, or the reasonableness of any compensation and/or expenses of any Trust Professionals, either the Liquidating Trustee or the affected party may ask the Bankruptcy Court to resolve the dispute.

(c) Except as provided in the following sentence, all payments to Trust Professionals shall be paid out of the Administrative Funding or, if all of the Administrative Funding has been spent, any remaining Liquidating Trust Assets, subject to the approval of a Supermajority of the Trust Advisory Board. All payments to Trust Professionals related to the Recovery Claims shall be paid out of the Litigation Funding.

6.9 Investment of Liquidating Trust Monies. All monies and other assets received by the Liquidating Trustee as Liquidating Trust Assets (including the proceeds thereof as a result of investment in accordance with this Section 6.9) shall, until distributed or paid over as herein provided, be held in trust for the benefit of the Liquidating Trust Beneficiaries, and shall not be segregated from other Liquidating Trust Assets, unless and to the extent required by the Plan. The Liquidating Trustee shall promptly invest any such monies (including any earnings thereon or proceeds thereof) as permitted by section 345 of the Bankruptcy Code, in the manner set forth in this Section 6.9, but shall otherwise be under no liability for interest or income on any monies received by the Liquidating Trust hereunder and held for distribution or payment to the Liquidating Trust Beneficiaries, except as such interest shall actually be received. Investment of any monies held by the Liquidating Trust shall be administered in accordance with the general duties and obligations hereunder. The right and power of the Liquidating Trustee to invest the Liquidating Trust Assets, the proceeds thereof, or any income earned by the Liquidating Trust, shall be limited to the right and power to (i) invest such Liquidating Trust Assets (pending distributions in accordance with the Plan or this Trust Agreement) in (a) short-term direct obligations of, or obligations guaranteed by, the United States of America or (b) short-term obligations of any agency or corporation which is or may hereafter be created by or pursuant to an act of the Congress of the United States as an agency or instrumentality thereof; or (ii) deposit such assets in demand deposits at any bank or trust company, which has, at the time of the deposit, a capital stock and surplus aggregating at least $1,000,000,000 (collectively, the "Permissible Investments"); provided, however, that the scope of any such Permissible Investments shall be limited to include only those investments that a liquidating trust, within the meaning of Treasury Regulations section 301.7701-4(d), may be permitted to

hold, pursuant to the Treasury Regulations, or any modification in the IRS guidelines, whether set forth in IRS rulings, other IRS pronouncements or otherwise.

6.10 Termination. The duties, responsibilities and powers of the Liquidating Trustee shall terminate on the date the Liquidating Trust is wound up and dissolved in accordance with Delaware law pursuant to Section 3.2 hereof, under applicable law in accordance with the Plan, by an order of the Bankruptcy Court or by entry of a final decree closing the Debtors' Chapter 11 cases; provided, that Sections 7.2, 7.4, 7.5 and 7.6 hereof shall survive such termination, dissolution and entry.

6.11 Resident Trustee.

(a) The Resident Trustee has been appointed and hereby agrees to serve as the trustee of the Liquidating Trust solely for the purpose of complying with the requirement of Section 3807(a) of the Trust Act that the Liquidating Trust have one trustee, which, in the case of a natural person, is a resident of the State of Delaware, or which in all other cases, has its principal place of business in the State of Delaware. The duties and responsibilities of the Resident Trustee shall be limited solely to (i) accepting legal process served on the Liquidating Trust in the State of Delaware, (ii) the execution of any certificates required to be filed with the office of the Delaware Secretary of State that the Resident Trustee is required to execute under Section 3811 of the Trust Act, and (iii) any other duties specifically allocated to the Resident Trustee in this Trust Agreement. Except as provided in the foregoing sentence, the Resident Trustee shall have no management responsibilities or owe any fiduciary duties to the Liquidating Trust, the Liquidating Trustee, the Trust Advisory Board or the Liquidating Trust Beneficiaries. Contemporaneously with the execution of this Trust Agreement, the Resident Trustee is hereby authorized and directed to file a Certificate of Trust with the Secretary of State of the State of Delaware as provided under the Trust Act.

(b) By its execution hereof, the Resident Trustee accepts the Liquidating Trust created herein. Except as otherwise expressly required by Section 6.11(a), the Resident Trustee shall not have any duty or liability with respect to the administration of the Liquidating Trust, the investment of the Liquidating Trust Assets or the distribution of the Liquidating Trust Assets to the Liquidating Trust Beneficiaries, and no such duties shall be implied. The Resident Trustee shall not be liable for the acts or omissions of the Liquidating Trustee or the Trust Advisory Board, nor shall the Resident Trustee be liable for supervising or monitoring the performance of the duties and obligations of the Liquidating Trustee or the Trust Advisory Board under this Trust Agreement, except as expressly required by Section 6.11(a). The Resident Trustee shall not be obligated to give any bond or other security for the performance of any of its duties hereunder. The Resident Trustee shall not be personally liable under any circumstances, except for its own willful misconduct, bad faith or gross negligence. Without limiting the foregoing:

(i) the Resident Trustee shall not be personally liable for any error of judgment made in good faith, except to the extent

such error of judgment constitutes willful misconduct, bad faith or gross negligence;

(ii) no provision of this Trust Agreement shall require the Resident Trustee to expend or risk its personal funds or otherwise incur any financial liability in the performance of its rights or powers hereunder if the Resident Trustee has reasonable grounds to believe that the payment of such funds or adequate indemnity against such risk or liability is not reasonably assured or provided to it;

(iii) the Resident Trustee shall not be personally liable for the validity or sufficiency of this Trust Agreement or for the due execution hereof by the other parties hereto;

(iv) the Resident Trustee may accept a certified copy of a resolution of the board of directors or other governing body of any corporate party as conclusive evidence that such resolution has been duly adopted by such body and that the same is in full force and effect;

(v) the Resident Trustee may request the Liquidating Trustee to provide a certificate with regard to any fact or matter the manner of ascertainment of which is not specifically prescribed herein, and such certificate shall constitute full protection to the Resident Trustee for any action taken or omitted to be taken by it in good faith in reliance thereon;

(vi) in the exercise or administration of the Liquidating Trust hereunder, the Resident Trustee (a) may act directly or through agents or attorneys pursuant to agreements entered into with any of them, and (b) may consult with nationally recognized counsel selected by it in good faith and with due care and employed by it, and it shall not be liable for anything done, suffered or omitted in good faith by it in accordance with the advice or opinion of any such counsel; and

(vii) the Resident Trustee acts solely as Resident Trustee hereunder and not in its individual capacity, and all persons having any claim against the Resident Trustee by reason of the transactions contemplated by this Trust Agreement shall look only to the Liquidating Trust Assets for payment or satisfaction thereof.

(c) The Resident Trustee shall be entitled to receive compensation out of the Administrative Funding from the Liquidating Trust for the services that the Resident Trustee performs in accordance with this Trust Agreement in

accordance with such fee schedules as shall be agreed from time to time by the Resident Trustee, the Liquidating Trustee and the Trust Advisory Board, as approved by the Bankruptcy Court. The Resident Trustee may also consult with counsel (who may be counsel for the Liquidating Trustee or for the Resident Trustee) with respect to those matters that relate to the Resident Trustee's role as the Delaware resident trustee of the Liquidating Trust, and the reasonable legal fees incurred in connection with such consultation shall be reimbursed out of the Administrative Funding to the Resident Trustee pursuant to this Section 6.11(c) provided such fees are approved by the Bankruptcy Court and provided further that no such fees shall be reimbursed to the extent that they are incurred as a result of the Resident Trustee's gross negligence, bad faith or willful misconduct.

(d) The Resident Trustee shall serve for the duration of the Liquidating Trust or until the earlier of (i) the effective date of the Resident Trustee's resignation, or (ii) the effective date of the removal of the Resident Trustee. The Resident Trustee may resign at any time by giving thirty (30) days' written notice to the Liquidating Trustee and the Trust Advisory Board; provided, however, that such resignation shall not be effective until such time as a successor Resident Trustee has accepted appointment. The Resident Trustee may be removed at any time by the Liquidating Trustee, with the consent of the Trust Advisory Board, by providing thirty (30) days' written notice to the Resident Trustee; provided, however, such removal shall not be effective until such time as a successor Resident Trustee has accepted appointment. Upon the resignation or removal of the Resident Trustee, the Liquidating Trustee, with the consent of the Trust Advisory Board, shall appoint a successor Resident Trustee. If no successor Resident Trustee shall have been appointed and shall have accepted such appointment within forty-five (45) days after the giving of such notice of resignation or removal, the Resident Trustee may petition the Bankruptcy Court for the appointment of a successor Resident Trustee. Any successor Resident Trustee appointed pursuant to this Section 6.11(d) shall be eligible to act in such capacity in accordance with this Trust Agreement and, following compliance with this Section 6.11(d), shall become fully vested with the rights, powers, duties and obligations of its predecessor under this Trust Agreement, with like effect as if originally named as Resident Trustee. Any such successor Resident Trustee shall notify the Resident Trustee of its appointment by providing written notice to the Resident Trustee and upon receipt of such notice, the Resident Trustee shall be discharged of its duties herein.

ARTICLE VII

CONCERNING THE LIQUIDATING TRUSTEE

7.1 Reliance by the Trustees and the Members of the Trust Advisory Board and the Litigation Subcommittee. Except as otherwise provided in this Trust Agreement, the Plan or the Confirmation Order, the Trustees and the Members of the Trust Advisory Board and the Litigation Subcommittee may rely and shall be protected in acting upon any resolution, statement, instrument, opinion, report, notice, request,

consent, order or other paper or document reasonably believed by the Trustees to be genuine and to have been signed or presented by the proper party or parties.

7.2 Liability to Third Persons. No Liquidating Trust Beneficiary shall be subject to any personal liability whatsoever, in tort, contract or otherwise, to any person in connection with the Liquidating Trust Assets or the affairs of the Liquidating Trustee. The Liquidating Trustee, the Trust Professionals and the members of the Trust Advisory Board and the Litigation Subcommittee shall not be subject to any personal liability whatsoever, in tort, contract or otherwise, to any person (including, in the case of the Liquidating Trustee and members of the Trust Advisory Board and the Litigation Subcommittee, to any Trust Professionals retained by the Liquidating Trustee in accordance with this Trust Agreement) in connection with the Liquidating Trust Assets or the affairs of the Liquidating Trust and shall not be liable with respect to any action taken or omitted to be taken in good faith, except for actions and omissions determined by a final order of the Bankruptcy Court to be due to their respective gross negligence, intentional fraud, criminal conduct or willful misconduct, and all such persons shall look solely to the Liquidating Trust Assets for satisfaction of claims of any nature arising in connection with affairs of the Liquidating Trust. Other than as set forth in the Plan or in the Confirmation Order, nothing in this Section 7.2 shall be deemed to release any Liquidating Trust Beneficiary from any actions or omissions occurring prior to the Effective Date.

7.3 Nonliability of Liquidating Trustee, Trust Advisory Board and the Litigation Subcommittee for Acts of Others. Except as provided herein, nothing contained in this Trust Agreement, the Plan or the Confirmation Order shall be deemed to be an assumption by the Liquidating Trustee, the Trust Advisory Board or the Litigation Subcommittee of any of the liabilities, obligations or duties of the Debtors or shall be deemed to be or contain a covenant or agreement by the Liquidating Trustee to assume or accept any such liability, obligation or duty. Any successor Liquidating Trustee, Trust Advisory Board member or Litigation Subcommittee member may accept and rely upon any accounting made by or on behalf of any predecessor Liquidating Trustee hereunder, and any statement or representation made as to the assets comprising the Liquidating Trust Assets or as to any other fact bearing upon the prior administration of the Liquidating Trust, so long as it has a good faith basis to do so. The Liquidating Trustee, the Trust Advisory Board and the Litigation Subcommittee shall not be liable for having accepted and relied in good faith upon any such accounting, statement or representation if it is later proved to be incomplete, inaccurate or untrue. The Liquidating Trustee or any successor Liquidating Trustee, the Trust Advisory Board and the Litigation Subcommittee shall not be liable for any act or omission of any predecessor Liquidating Trustee, Trust Advisory Board or Litigation Subcommittee, nor have a duty to enforce any claims against any predecessor Liquidating Trustee, Trust Advisory Board or Litigation Subcommittee on account of any such act or omission, unless directed to do so by the Trust Advisory Board or the Litigation Subcommittee, as applicable. No provision of this Trust Agreement shall require the Liquidating Trustee to expend or risk his personal funds or otherwise incur any financial liability in the performance of his rights

or powers hereunder if the Liquidating Trustee has reasonable grounds to believe that the payment of such funds or adequate indemnity against such risk or liability is not reasonably assured or provided to him.

7.4 Exculpation. As of the Effective Date, the Liquidating Trustee, the Trust Professionals and the members of the Trust Advisory Board and the Litigation Subcommittee shall be and hereby are exculpated by all Persons, including without limitation, Liquidating Trust Beneficiaries, holders of Claims, holders of Equity interests, and other parties-in-interest, from any and all claims, causes of action and other assertions of liability arising out of or related to the discharge of their respective powers and duties conferred by the Plan, this Trust Agreement or any order of the Bankruptcy Court entered pursuant to or in furtherance of the Plan, or applicable law or otherwise, except for actions or omissions to act that are determined by final order of the Bankruptcy Court to have arisen out of their own respective intentional fraud, criminal conduct, gross negligence or willful misconduct. No Liquidating Trust Beneficiary, holder of a Claim, holder of an Equity Interest, or other party-in-interest shall have or be permitted to pursue any claim or cause of action against the Liquidating Trustee, the Liquidating Trust, the employees, professionals or representatives of either the Liquidating Trustee or the Liquidating Trust (including the Trust Professionals) or the members of the Trust Advisory Board and the Litigation Subcommittee, for making payments in accordance with, or for implementing, the provisions of the Plan, the Confirmation Order and this Trust Agreement. Any action taken or omitted to be taken with the express approval of the Bankruptcy Court, the Trust Advisory Board or the Litigation Subcommittee shall conclusively be deemed not to constitute gross negligence or willful misconduct; provided, however, that, notwithstanding any provision herein to the contrary, the Liquidating Trustee shall not be obligated to comply with a direction of the Trust Advisory Board or the Litigation Subcommittee, whether or not express, which would result in a change to the distribution provisions of this Trust Agreement and the Plan.

7.5 Limitation of Liability. The Trustees, the members of the Trust Advisory Board, the members of the Litigation Subcommittee, and the Trust Professionals will not be liable for punitive, exemplary, consequential, special or other damages for a breach of this Trust Agreement under any circumstances.

7.6 Indemnity. The Trustees (including the individual(s) serving as or comprising the Liquidating Trustee), the employees of the Liquidating Trust, the members of the Trust Advisory Board and the Litigation Subcommittee, and their respective agents, employees, officers, directors, professionals, attorneys, accountants, advisors, representatives and principals, including, without limitation, the Trust Professionals (collectively, the "Indemnified Parties") shall be indemnified by the Liquidating Trust solely from the Liquidating Trust Assets for any losses, claims, damages, liabilities and expenses occurring after the Effective Date, including, without limitation, reasonable attorneys' fees, disbursements and related expenses which the Indemnified Parties may incur or to which the Indemnified Parties may become subject in connection with any action, suit, proceeding or investigation brought by or threatened

against one or more of the Indemnified Parties on account of the acts or omissions in their capacity as, or on behalf of, the Trustees or a member of the Trust Advisory Board or the Litigation Subcommittee; provided, however, that the Liquidating Trust shall not be liable to indemnify any Indemnified Party for any act or omission arising out of such Indemnified Party's respective gross negligence, fraud or willful misconduct as determined by a Final Order of the Bankruptcy Court. Notwithstanding any provision herein to the contrary, the Indemnified Parties shall be entitled to obtain advances from the Liquidating Trust to cover their reasonable expenses of defending themselves in any action brought against them as a result of the acts or omissions, actual or alleged, of an Indemnified Party in its capacity as such, except for any actions or omissions arising from their own respective willful misconduct, fraud or gross negligence; provided, however, that the Indemnified Parties receiving such advances shall repay the amounts so advanced to the Liquidating Trust immediately upon the entry of a final, non-appealable judgment or order finding that such Indemnified Parties were not entitled to any indemnity under the provisions of this Section 7.6. The foregoing indemnity in respect of any Indemnified Party shall survive the termination of such Indemnified Party from the capacity for which they are indemnified.

7.7 Compensation and Expenses. The Liquidating Trustee (including the individual(s) serving as or comprising the Liquidating Trustee) shall receive compensation for its services, to be paid out of the Administrative Funding, in accordance with Annex D. In addition, the Liquidating Trustee shall be entitled, with the consent of the Trust Advisory Board, and subject to the approval of the Bankruptcy Court, to reimburse itself from the Administrative Funding on a monthly basis for all reasonable out-of-pocket expenses actually incurred in the performance of duties in accordance with this Trust Agreement and the Plan.

ARTICLE VIII

SUCCESSOR LIQUIDATING TRUSTEES

8.1 Resignation. The Liquidating Trustee may resign from the Liquidating Trust by giving at least sixty (60) days prior written notice thereof to each member of the Trust Advisory Board. Such resignation shall become effective on the later to occur of (a) the date specified in such written notice and (b) the effective date of the appointment of a successor Liquidating Trustee in accordance with Section 8.4 hereof and such successor's acceptance of such appointment in accordance with Section 8.5 hereof.

8.2 Removal. The Liquidating Trustee may be removed by a majority vote of the members of the Trust Advisory Board. Such removal shall become effective on the date specified in such action by the Trust Advisory Board.

8.3 Effect of Resignation or Removal. The resignation, removal, incompetency, bankruptcy or insolvency of the Liquidating Trustee shall not operate to terminate the Liquidating Trust or to revoke any existing agency created pursuant to the

terms of this Trust Agreement, the Plan or the Confirmation Order or invalidate any action theretofore taken by the Liquidating Trustee. All fees and expenses properly incurred by the Liquidating Trustee prior to the resignation, incompetency or removal of the Liquidating Trustee shall be paid from the Liquidating Trust Assets, unless such fees and expenses are disputed by (a) the Trust Advisory Board or (b) the successor Liquidating Trustee, in which case the Bankruptcy Court shall resolve the dispute and any disputed fees and expenses of the predecessor Liquidating Trustee that are subsequently allowed by the Bankruptcy Court shall be paid from the Liquidating Trust Assets. In the event of the resignation or removal of the Liquidating Trustee, such Liquidating Trustee shall: (i) promptly execute and deliver such documents, instruments and other writings as may be reasonably requested by the successor Liquidating Trustee or directed by the Bankruptcy Court to effect the termination of such Liquidating Trustee's capacity under this Trust Agreement; (ii) promptly deliver to the successor Liquidating Trustee all documents, instruments, records and other writings related to the Liquidating Trust as may be in the possession of such Liquidating Trustee; and (iii) otherwise assist and cooperate in effecting the assumption of its obligations and functions by such successor Liquidating Trustee.

8.4 Appointment of Successor. In the event of the death, resignation, removal, incompetency, bankruptcy or insolvency of the Liquidating Trustee, a vacancy shall be deemed to exist and a successor shall be appointed by a majority of the Trust Advisory Board; provided, however, that, under no circumstance, shall the successor Liquidating Trustee be a director or officer of any Affiliate of the Liquidating Trust. In the event that a successor Liquidating Trustee is not appointed within thirty (30) days after the date of such vacancy, the Bankruptcy Court, upon its own motion or the motion of a Liquidating Trust Beneficiary or any member of the Trust Advisory Board, shall appoint a successor Liquidating Trustee.

8.5 Acceptance of Appointment by Successor Liquidating Trustee. Any successor Liquidating Trustee appointed hereunder shall execute an instrument accepting its appointment and shall deliver one counterpart thereof to the Bankruptcy Court for filing and to the Trust Advisory Board and, in case of the Liquidating Trustee's resignation, to the resigning Liquidating Trustee. Thereupon, such successor Liquidating Trustee shall, without any further act, become vested with all the liabilities, duties, powers, rights, title, discretion and privileges of its predecessor in the Liquidating Trust with like effect as if originally named Liquidating Trustee and shall be deemed appointed pursuant to Bankruptcy Code section 1123(b)(3)(B). The resigning or removed Liquidating Trustee shall duly assign, transfer and deliver to such successor Liquidating Trustee all property and money held by such resigning or removed Liquidating Trustee hereunder and shall, as directed by the Bankruptcy Court or reasonably requested by such successor Liquidating Trustee, execute and deliver an instrument or instruments conveying and transferring to such successor Liquidating Trustee upon the trusts herein expressed, all the liabilities, duties, powers, rights, title, discretion and privileges of such resigning or removed Liquidating Trustee.

ARTICLE IX

MISCELLANEOUS PROVISIONS

9.1 Governing Law. Except to the extent that the Bankruptcy Code or other federal law is applicable, or to the extent that any document to be entered into in connection herewith provides otherwise, the rights, duties, and obligations arising under this Trust Agreement shall be governed by, and construed and enforced in accordance with, the Bankruptcy Code and, to the extent not inconsistent therewith, the laws of the State of Delaware, without giving effect to principles of conflicts of laws.

9.2 Jurisdiction. Subject to the proviso below, the parties agree that the Bankruptcy Court shall have exclusive jurisdiction over the Liquidating Trust and the Liquidating Trustee, including, without limitation, the administration and activities of the Liquidating Trust and the Liquidating Trustee, and, pursuant to the Plan, the Bankruptcy Court has retained such jurisdiction; provided, however, that notwithstanding the foregoing, the Liquidating Trustee shall have power and authority to bring any action in any court of competent jurisdiction (including the Bankruptcy Court) to prosecute any Claims or Causes of Action assigned to the Liquidating Trust.

9.3 Severability. In the event any provision of this Trust Agreement or the application thereof to any person or circumstances shall be determined by a final, non-appealable judgment or order to be invalid or unenforceable to any extent, the remainder of this Trust Agreement or the application of such provision to persons or circumstances or in jurisdictions other than those as to or in which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Trust Agreement shall be valid and enforceable to the full extent permitted by law.

9.4 Notices. Any notice or other communication required or permitted to be made under this Trust Agreement shall be in writing and shall be deemed to have been sufficiently given, for all purposes, if delivered personally, by email, facsimile, sent by nationally recognized overnight delivery service or mailed by first-class mail:

(i) if to the Liquidating Trustee, to:

William C. Kosturos
Alvarez & Marsal
100 Pine Street, Suite 900
San Francisco, CA 94111
Fax: 415-837-1684
Email: bkosturos@alvarezandmarsal.com

with a copy to:

Weil, Gotshal & Manges LLP
767 Fifth Avenue

New York, New York 10153
Attention: Brian S. Rosen, Esq.
Facsimile: (212) 310-8007
Email: brian.rosen@weil.com

if to the Resident Trustee, to:

CSC Trust Company of Delaware
2711 Centerville Road, Suite 400
Wilmington, DE 19808
Attention: Trust Administration
Fax: 302-636-8666
Email: csctrust@cscinfo.com

with a copy to:

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, New York 10153
Attention: Brian S. Rosen, Esq.
Facsimile: (212) 310-8007
Email: brian.rosen@weil.com

(ii) if to members of the Trust Advisory Board, then to each of;

Wells Fargo Bank, N.A.
Attention: Thomas Korsman
Facsimile: [●]
Email: [●]

Arnold Kastenbaum
Attention: [●]
Facsimile: [●]
Email: [●]

Joel Klein
Attention: [●]
Facsimile: [●]
Email: [●]

Michael Willingham
Attention: [●]

Facsimile: [●]
Email: [●]

Matthew Cantor
Attention: [●]
Facsimile: [●]
Email: [●]

Marc S. Kirschner
Attention: [●]
Facsimile: [●]
Email: [●]

Hon. Douglas Southard
Attention: [●]
Facsimile: [●]
Email: [●]

(iii) if to any Liquidating Trust Beneficiary, to the last known address of such Liquidating Trust Beneficiary according to the Debtors' Schedules, such Liquidating Trust Beneficiary's proof of claim or the lists of record holders provided to the Liquidating Trustee; and

(iv) To the Debtors or the Post-Effective Date Debtors:

Washington Mutual, Inc.
925 Fourth Avenue, Suite 2500
Seattle, Washington 98104
Attention: General Counsel
Facsimile: (206) 432-8879
Email: chad.smith@wamuinc.net

With a copy to:

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, New York 10153
Attention: Brian S. Rosen, Esq.
Facsimile: (212) 310-8007
Email: brian.rosen@weil.com

9.5 Headings. The headings contained in this Trust Agreement are solely for convenience of reference and shall not affect the meaning or interpretation of this Trust Agreement or of any term or provision hereof.

9.6 Relationship to the Plan. The terms of this Trust Agreement are intended to supplement the terms provided by the Plan and the Confirmation Order, and therefore this Trust Agreement incorporates the provisions of the Plan and the Confirmation Order (which may amend or supplement the Plan). Additionally, the Liquidating Trustee, the Trust Advisory Board and the Litigation Subcommittee may seek any orders from the Bankruptcy Court, upon notice and a hearing in furtherance of implementation of the Plan, the Confirmation Order and this Trust Agreement. However, to the extent that there is conflict between the provisions of this Trust Agreement, the provisions of the Plan, or the Confirmation Order, each document shall have controlling effect in the following rank order: (1) this Trust Agreement, (2) the Confirmation Order, and (3) the Plan.

9.7 Entire Trust Agreement. This Trust Agreement (including the recitals and annex hereto), the Plan and the Confirmation Order constitute the entire agreement by and among the parties and supersede all prior and contemporaneous agreements or understandings by and among the parties with respect to the subject matter hereof.

9.8 Cooperation. The Debtors shall turn over or otherwise make available to the Liquidating Trustee at no cost to the Liquidating Trust or the Liquidating Trustee, all books and records reasonably required by the Liquidating Trustee to carry out its duties hereunder, and agree to otherwise reasonably cooperate with the Liquidating Trustee in carrying out its duties hereunder, subject to the confidentiality provisions herein to preserve the confidential nature of the Debtors' books and records.

9.9 Amendment and Waiver. Any provision of this Trust Agreement may be amended or waived by the Liquidating Trustee with the consent of all members of the Trust Advisory Board. Notwithstanding this Section 9.9, any amendment to this Trust Agreement shall not be inconsistent with the purpose and intention of the Liquidating Trust to liquidate in an expeditious but orderly manner the Liquidating Trust Assets in accordance with Treasury Regulations section 301.7701-4(d) and Section 1.2 hereof.

9.10 Confidentiality. The Trustees and their employees, members, agents, professionals and advisors, including the Trust Professionals, and each member of the Trust Advisory Board and the Litigation Subcommittee (each a "Confidential Party" and, collectively, the "Confidential Parties") shall hold strictly confidential and not use for personal gain any material, non-public information of which they have become aware in their capacity as a Confidential Party, of or pertaining to any Debtor to which any of the Liquidating Trust Assets relates; provided, however, that such information may be disclosed if (a) it is now or in the future becomes generally available to the public other than as a result of a disclosure by the Confidential Parties; or (b) such disclosure is required of the Confidential Parties pursuant to legal process including but not limited to subpoena or other court order or other applicable laws or regulations. In the event that any Confidential Party is requested to divulge confidential information pursuant to this clause (b), such Confidential Party shall promptly, in advance of making such disclosure,

provide reasonable notice of such required disclosure to the Liquidating Trustee (or the Trust Advisory Board in case the Liquidating Trustee or the Resident Trustee is the disclosing party) to allow sufficient time to object to or prevent such disclosure through judicial or other means and shall cooperate reasonably with the Liquidating Trustee (or the Trust Advisory Board, as applicable) in making any such objection, including but not limited to appearing in any judicial or administrative proceeding in support of any objection to such disclosure.

9.11 Meanings of Other Terms. Except where the context otherwise requires, words importing the masculine gender include the feminine and the neuter, if appropriate, words importing the singular number shall include the plural number and vice versa and words importing persons shall include firms, associations, corporations and other entities. All references herein to Articles, Sections and other subdivisions, unless referring specifically to the Plan or provisions of the Bankruptcy Code, the Bankruptcy Rules, or other law, statute or regulation, refer to the corresponding Articles, Sections and other subdivisions of this Trust Agreement, and the words herein and words of similar import refer to this Trust Agreement as a whole and not to any particular Article, Section or subdivision of this Trust Agreement. The term "including" shall mean "including, without limitation."

9.12 Counterparts. This Trust Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same instrument. A facsimile or portable document file (PDF) signature of any party shall be considered to have the same binding legal effect as an original signature.

9.13 Intention of Parties to Establish Liquidating Trust. This Trust Agreement is intended to create a liquidating trust for United States federal income tax purposes and, to the extent provided by law, shall be governed and construed in all respects as such a trust and any ambiguity herein shall be construed consistent herewith and, if necessary, this Trust Agreement may be amended to comply with such United States federal income tax laws, which amendments may apply retroactively.

[Remainder of Page Blank — Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this Trust Agreement or caused this Trust Agreement to be duly executed by their respective officers, representatives or agents, effective as of the date first above written.

WASHINGTON MUTUAL, INC.

By: _____
Name:
Title:

WMI INVESTMENT CORP.

By: _____
Name:
Title:

WILLIAM C. KOSTUROS

By: _____
Name: William C. Kosturos

CSC TRUST COMPANY OF DELAWARE, not in its individual capacity, but solely as Resident Trustee

By: _____
Name:

Annex A

Initial Trust Advisory Board Members

CC Members:

1. Wells Fargo Bank, N.A.
2. Arnold Kastenbaum
3. Marc S. Kirschner

EC Members:

4. Joel Klein
5. Michael Willingham
6. Hon. Douglas Southard

CC-EC Member:

7. Matthew Cantor

Initial Litigation Subcommittee Members

1. Marc S. Kirschner
2. Hon. Douglas Southard
3. Michael Willingham

Annex B

Trust Advisory Board and Litigation Subcommittee Compensation

(a) Base Compensation

The annual base compensation of each member of the Trust Advisory Board shall be $40,000.00 per member, which amount shall be paid in twelve equal installments on a monthly basis in arrears. In addition, each member of the Litigation Subcommittee shall be paid an additional amount of $10,000.00 per annum, which amount shall be paid in twelve equal installments on a monthly basis in arrears.

(b) Incentive Compensation

In addition to the base compensation set forth above, each member of the Trust Advisory Board shall be entitled to receive such member's pro rata share (based on the total number of Trust Advisory Board members at the time at which such compensation is paid) of the following additional incentive compensation; provided, however, that the total annual incentive compensation of each Member shall not exceed $50,000.00:

(i) On an annual basis in arrears during the term of the Liquidating Trust, 0.1% of the aggregate value of the Liquidating Trust Assets (excluding any Runoff Notes, Funding and the Liquidating Trust Claims Reserve) that are distributed to the Liquidating Trust Beneficiaries during the preceding 12 month period, excluding the first distribution that the Liquidating Trust makes on or after the Effective Date;

(ii) Upon the dissolution of the Trust in accordance with the terms of this Trust Agreement, and after taking into account any reasonable reserve that may be required to be retained with respect to the winding up of the affairs of the Liquidating Trust in accordance with Section 3.3, 0.1% of any portion of the Funding that remains unspent immediately prior to such dissolution and the payment of any final distribution to the Liquidating Trust Beneficiaries; and

(iii) On an annual basis in arrears during the term of the Liquidating Trust, 0.1% of the aggregate reduction in the Liquidating Trust Claims Reserve which is the result of the disallowance of any Disputed Claims during the preceding 12 month period.

Annex C

Classes of Liquidating Trust Interests and Respective Distribution Priorities

Recovery [1], [2], [3]	Senior Fixed Rate Notes	Senior Floating Rate Notes	Senior Subordinated Notes	CCB Guarantees	PIERS	General Unsecured Creditors	510(b) Sub. Claims	Preferred Stock
Tranche 1	No LTIs	No LTIs	No LTIs	No LTIs	No LTIs	No LTIs	No LTIs	No LTIs
Tranche 2	• Senior Note Postpetition Interest (939322AL7) Liquidating Trust Interests • Senior Note Postpetition Interest (939322AP8) Liquidating Trust Interests • Senior Note Postpetition Interest (939322AX1) Liquidating Trust Interests • Senior Note Postpetition Interest (939322AT0) Liquidating Trust Interests • Senior Note Postpetition Interest (939322AV5) Liquidating Trust Interests	• Senior Note Postpetition Interest (939322AW3) Liquidating Trust Interests • Senior Note Postpetition Interest (939322AQ6) Liquidating Trust Interests • Senior Note Postpetition Interest (939322AS2) Liquidating Trust Interests • Senior Note Postpetition Interest (939322AU7) Liquidating Trust Interests	• Prepetition Claim & Postpetition Interest Claim Subordinated Note (939322AE3) Liquidating Trust Interests • Prepetition Claim & Postpetition Interest Claim Subordinated Note (939322AN3) Liquidating Trust Interests • Prepetition Claim & Postpetition Interest Claim Subordinated Note	No LTIs	No LTIs	• General Unsecured Creditor Liquidating Trust Interests: Pro Rata Share based on Claims[4] [9] • Liquidating Trust Interests on Late-Filed Claims[8]	No LTIs	No LTIs

	Senior Fixed Rate Notes	Senior Floating Rate Notes	Senior Subordinated Notes	CCB Guarantees	PIERS	General Unsecured Creditors	510(b) Sub. Claims	Preferred Stock
			(939322AY9) Liquidating Trust Interests					
Tranche 3	No LTIs	No LTIs	No LTIs	• Prepetition Claim & Postpetition Interest Claim CCB Capital Trust IV (22499AAB5) Liquidating Trust Interests[5] • Prepetition Claim & Postpetition Interest Claim CCB Capital Trust V (19499AAI6) Liquidating Trust Interests[5] • Prepetition Claim & Postpetition Interest Claim CCB Capital Trust VII	No LTIs	• General Unsecured Creditor Liquidating Trust Interests: Pro Rata Share based on Claims[4] [9]	No LTIs	No LTIs

	Senior Fixed Rate Notes	Senior Floating Rate Notes	Senior Subordinated Notes	CCB Guarantees	PIERS	General Unsecured Creditors	510(b) Sub. Claims	Preferred Stock
				(22899AAB1) Liquidating Trust Interests[5] • Prepetition Claim & Postpetition Interest Claim CCB Capital Trust VIII (22899AAA3) Liquidating Trust Interests[5] • Prepetition Claim & Postpetition Interest Claim HFC Capital Trust I (420542AD4) Liquidating Trust Interests[5] • Prepetition Claim & Postpetition Interest Claim HFC Capital Trust I (420542102) Liquidating Trust Interests[5] • Prepetition Claim & Postpetition Interest Claim				

	Senior Fixed Rate Notes	Senior Floating Rate Notes	Senior Subordinated Notes	CCB Guarantees	PIERS	General Unsecured Creditors	510(b) Sub. Claims	Preferred Stock
				CCB Capital Trust VI (124873AA8) Liquidating Trust Interests[5] • Prepetition Claim & Postpetition Interest Claim CCB Capital Trust IX (124871AA2) Liquidating Trust Interests[5]				
Tranche 4	No LTIs	• Senior Note Postpetition Interest (939322AW3) Liquidating Trust Interests • Senior Note Postpetition Interest (939322AQ6) Liquidating Trust Interests • Senior Note Postpetition Interest (939322AS2) Liquidating Trust Interests • Senior Note Postpetition Interest (939322AU7)	No LTIs	No LTIs	• Residual PIERS (939322848) Liquidating Trust Interests[6] • Subordinated PIERS (93933U407) Liquidating Trust Interests[7]	• General Unsecured Creditor Liquidating Trust Interests: Pro Rata Share based on Claims[4] [9]	No LTIs	No LTIs

	Senior Fixed Rate Notes	Senior Floating Rate Notes	Senior Subordinated Notes	CCB Guarantees	PIERS	General Unsecured Creditors	510(b) Sub. Claims	Preferred Stock
		Liquidating Trust Interests						
Tranche 5	No LTIs	No LTIs	No LTIs	No LTIs	No LTIs	No LTIs	No LTIs	No LTIs
Tranche 6	No LTIs	No LTIs	No LTIs	No LTIs	No LTIs	No LTIs	No LTIs	No LTIs

Notes:

(1) Within Tranche 2, the holders of Senior Notes Postpetition Interest Claim Liquidating Trust Interests and the holders of Subordinated Notes Prepetition Claim Liquidating Trust Interests and Postpetition Interest Claim Liquidating Trust Interests will share Pro Rata based on the size of those claims. For the calculation of the General Unsecured Creditors' Pro Rata Share in all Tranches, see Note 4.

(2) Holders of Liquidating Trust Interests in Tranches will be paid in order with Tranche 2 Liquidating Trust Interests (if any) receiving distributions first and Tranche 6 Liquidating Trust Interests (if any) receiving distributions last. Claims of Tranche 2 Liquidating Trust Interests (if any) must be satisfied in full prior to Tranche 3 Liquidating Trust Interests receiving distributions and so forth.

(3) All CUSIP numbers that appear in this Annex C refer to the CUSIP numbers for the applicable tranches of debt, as applicable, as of December 2011.

(4) There shall be only one class of General Unsecured Creditor Liquidating Trust Interests. The Pro Rata Share of holders of General Unsecured Creditor Liquidating Trust Interests are calculated by dividing (a) the amount of General Unsecured Claims, by (b) the total cash distributed within the Tranche. The cash distributed within the Tranche is the lesser of (i) the amount necessary to satisfy all claims within the Tranche or (ii) the amount of cash available. Separate Liquidating Trust Interest sub-Tranches may need to be issued by claim in order to track interest accretion post the Effective Date.

(5) Each CCB Guarantee Liquidating Trust Interest under Tranche 3 represents the related class of CCB preferred securities only, in each case as described more specifically in Exhibits A and B of the Plan. In accordance with the terms of the Global Settlement Agreement, and upon implementation thereof, holders of CCB-related common securities will release all claims against the Debtors and will not receive a distribution related to such common securities. While no funds or Liquidating Trust Interests will be distributed in relation to CCB-related common securities, amounts claimed by holders of CCB-related common securities with respect to CCB Guarantees will be taken into account for disbursement calculation purposes.

(6) See Note 9 below for a description of pro rata sharing with General Unsecured Creditor Liquidating Trust Interests.

(7) The Subordinated PIERS Liquidating Trust Interests are representative of the common PIERS securities and are owned by WMI. While Subordinated PIERS Liquidating Trust Interests will be issued for disbursement calculation purposes, as set forth in the Plan, WMI will not collect any funds in association with these Subordinated PIERS Liquidating Trust Interests. See Note 9 below for a description of pro rata sharing with General Unsecured Creditor Liquidating Trust Interests.

(8) Holders of Liquidating Trust Interests on account of Allowed Late-Filed Claims will be paid only after all other pre-Petition Date claims (other than Subordinated Claims) are paid in full without giving effect to applicable turnover provisions. Liquidating Trust Interests on Allowed Late-Filed Claims will not share pro rata with Liquidating Trust Interests based on any other claims. Therefore, to the extent holders of Liquidating Trust Interests on Allowed Late-Filed Claims are paid, this will create a break in the recovery of other creditors prior to their recovery on account of post-petition interest. The placement of Liquidating Trust Interests for Allowed Late-Filed Claims in the chart above is illustrative only, as the size of the Allowed General Unsecured Claims and the amount of post-Petition Date interest turned over on account of contractual subordination provisions will influence the position of relevant Liquidating Trust Interests in the waterfall. The Liquidating Trust Interests for Allowed Late-Filed Claims will, in any event, be paid immediately after satisfaction of General Unsecured Creditor Liquidating Trust Interests, but prior to the payment of post-Petition Date interest and Liquidating Trust Interests on Subordinated Claims.

(9) If it is provided for in an applicable contract or by law, the General Unsecured Creditors Liquidating Trust Interests will share pro rata in distributions to holders of PIERS Liquidating Trust Interests on account of post-Petition Date interest with respect to all Postpetition Interest Claims, including Postpetition Interest Claims to which the holders of PIERS Claims have been subrogated (on account of turnover in accordance with contractual subordination provisions). The chart above is illustrative only, as the point at which the holders of Allowed General Unsecured Liquidating Trust Interests begin receiving post-Petition Date interest is dependent on the size of the Allowed General Unsecured Prepetition Claims and the amount of post-Petition Date interest paid pursuant to contractual subordination. Separate Liquidating Trust Interest sub-Tranches may need to be issued by claim in order to track interest accretion post the Effective Date.

Annex D

Liquidating Trustee Compensation

The Liquidating Trustee shall be compensated on a monthly rate for any services that the Liquidating Trustee provides while acting as Liquidating Trustee. The Liquidating Trustee's monthly rate as of the date of this Agreement is $15,000, which rate is subject to adjustment on an annual basis on January 1 each year.

Exhibit B

Form of Amended and Restated By-laws for Reorganized WMI

FORM

OF

AMENDED AND RESTATED
BYLAWS

OF

[WASHINGTON MUTUAL, INC.]
(a Washington corporation)

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FORM
OF
AMENDED AND RESTATED
BYLAWS

OF

[**WASHINGTON MUTUAL, INC.]**
(a Washington corporation)

PREAMBLE

These Amended and Restated Bylaws ("Bylaws") are subject to, and governed by, the Washington Business Corporation Act ("WBCA") and the Amended and Restated Articles of Incorporation (as amended from time to time, the "Charter") of [Washington Mutual, Inc.], a Washington corporation (the "Corporation"). In the event of a direct conflict between the provisions of these Bylaws and the mandatory provisions of the WBCA or the Charter, such provisions of the WBCA or the Charter, as the case may be, shall control.

ARTICLE I
OFFICES

1.1 Registered Office and Agent. The registered office and registered agent of the Corporation shall be as designated from time to time by the appropriate filing by the Corporation in the office of the Secretary of State of the State of Washington.

1.2 Principal Offices. The principal office for the transaction of the business of the Corporation shall be at such place as may be established by the board of directors of the Corporation (the "Board"), within and without the State of Washington. The Board is granted full power and authority to change said principal office from one location to another.

1.3 Other Offices. The Corporation may also have offices at such other places, both within and without the State of Washington, as the Board may from time to time determine or as the business of the Corporation may require.

ARTICLE II
MEETINGS OF SHAREHOLDERS

2.1 Annual Meeting. An annual meeting of shareholders of the Corporation shall be held each calendar year on such date and at such time as shall be designated from time to time by the Board and stated in the notice of the meeting or in a duly executed waiver of notice of such meeting, *provided*, *however*, that the first annual meeting shall take place within six (6) months after the Effective Date (as defined in the Seventh Amended Joint Plan of Washington Mutual, Inc. and WMI Investment Corp. Pursuant to chapter 11 of the Bankruptcy Code). At such meeting, the shareholders shall, subject to Article III hereof, elect directors and transact such other business as may properly be brought before the meeting.

2.2 Special Meeting. A special meeting of the shareholders may be called at any time by the Chairman of the Board, the President, or the Board, and shall be called by the President or the Secretary at the request in writing of the shareholders of record of not less than ten percent (10%) of all shares entitled to vote at such meeting or as otherwise provided by the Charter. A special meeting shall be held on such date and at such time as shall be designated by the person(s) calling the meeting and stated in the notice of

the meeting or in a duly executed waiver of notice of such meeting. Only such business shall be transacted at a special meeting as may be stated or indicated in the notice of such meeting or in a duly executed waiver of notice of such meeting.

2.3 Place of Meetings. An annual meeting of shareholders may be held at any place within or without the State of Washington designated by the Board. A special meeting of shareholders may be held at any place within or without the State of Washington designated in the notice of the meeting or a duly executed waiver of notice of such meeting. Meetings of shareholders shall be held at the principal office of the Corporation unless another place is designated for meetings in the manner provided herein.

2.4 Notice. Notice stating the place, if any, day, and time of each meeting of the shareholders, the record date for determining the shareholders entitled to vote at the meeting, if such date is different from the record date for determining shareholders entitled to notice of the meeting, and, in case of a special meeting, the purpose or purposes for which the meeting is called shall, unless otherwise provided by law, the Charter or these Bylaws, be delivered not less than ten (10) nor more than sixty (60) days before the date of the meeting, either personally or by mail, by or at the direction of the President, the Secretary, or the officer or person(s) calling the meeting, to each shareholder of record entitled to vote at such meeting. If such notice is to be sent by mail, it shall be directed to such shareholder at his address as it appears on the records of the Corporation, unless he shall have filed with the Secretary of the Corporation a written request that notices to him be mailed to some other address, in which case it shall be directed to him at such other address. Notice of any meeting of shareholders shall not be required to be given to any shareholder who shall attend such meeting in person or by proxy and shall not, at the beginning of such meeting, object to the transaction of any business because the meeting is not lawfully called or convened, or who shall, either before or after the meeting, submit a signed waiver of notice, in person or by proxy. Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders may be given by electronic transmission in the manner provided in Section 23B.01.410(2)(c) of the WBCA.

2.5 Voting List. At least ten (10) days before each meeting of shareholders, the Secretary or other officer of the Corporation who has charge of the Corporation's stock ledger, either directly or through another officer appointed by him or through a transfer agent appointed by the Board, shall prepare a complete list of shareholders entitled to vote thereat (*provided*, *however*, if the record date for determining the shareholders entitled to vote is less than ten (10) days before the date of the meeting, the list shall reflect the shareholders entitled to vote as of the tenth day before the meeting date), arranged in alphabetical order and showing the address of each shareholder and number of shares registered in the name of each shareholder. For a period of ten (10) days prior to such meeting, such list shall be available for inspection by any shareholder during ordinary business hours, at the principal place of business of the Corporation or at a place specified in the meeting notice in the city where the meeting will be held and shall be open to examination by any shareholder for any purpose germane to the meeting. Such list shall be produced at such meeting and kept at the meeting at all times during such meeting and may be inspected by any shareholder who is present.

2.6 Quorum. The holders of a majority of the outstanding shares entitled to vote on a matter, present in person or by proxy, shall constitute a quorum at any meeting of shareholders, except as otherwise provided by law, the Charter, or these Bylaws. Where a separate vote by a class or classes or series is required, a majority of the voting power of the shares of such class or classes or series present in person or represented by proxy shall constitute a quorum entitled to take action with respect to that vote on that matter. If a quorum shall not be present, in person or by proxy, at any meeting of shareholders, the shareholders entitled to vote thereat who are present, in person or by proxy, or, if no shareholder entitled to vote is present, any officer of the Corporation, may adjourn the meeting from time to time.

Notice need not be given of the new date, time or place for the adjourned meeting if the new date, time or place is announced at the meeting before adjournment; provided, however, that if a new record date is fixed for the adjourned meeting, notice of the adjourned meeting must be given to persons who are shareholders as of the new record date. At any adjourned meeting at which a quorum shall be present, in person or by proxy, any business may be transacted that may have been transacted at the original meeting had a quorum been present.

2.7 Required Vote; Withdrawal of Quorum. When a quorum is present at any meeting, the affirmative vote of the holders of at least a majority of the outstanding shares entitled to vote who are present, in person or by proxy, at the meeting and entitled to vote on the subject matter shall decide any question brought before such meeting, unless the question is one on which, by applicable law or any rule or regulation applicable to the Corporation or its stock, or under an express provision of the Charter or these Bylaws, a different vote is required, in which case such applicable law, rule or regulation, or such express provision shall govern and control the decision of such question. Once a share is represented for any purpose at a meeting other than solely to object to holding a meeting or transacting business at the meeting, it is deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be set for that adjourned meeting.

2.8 Method of Voting; Proxies. Except as otherwise provided in the Charter or by law, each outstanding share, regardless of class, shall be entitled to one vote on each matter submitted to a vote at a meeting of shareholders. Elections of directors need not be by written ballot. At any meeting of shareholders, every shareholder having the right to vote may vote either in person or by a proxy executed in writing by the shareholder or transmitted by the shareholder as permitted by law, including, without limitation, electronically, via telegram, internet, interactive voice response system, or other means of electronic transmission executed or authorized by such shareholder or by his duly authorized attorney-in-fact. Each such proxy shall be filed with the Secretary of the Corporation before or at the time of the meeting. Any such proxy transmitted electronically shall set forth information from which it can be determined by the Secretary of the Corporation that such electronic transmission was authorized by the shareholder. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy. If no date is stated in a proxy, such proxy shall be presumed to have been executed on the date of the meeting at which it is to be voted. Each proxy shall be revocable unless expressly provided therein to be irrevocable and coupled with an interest sufficient in law to support an irrevocable power or unless otherwise made irrevocable by law.

2.9 Record Date.

(a) For the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders, or any adjournment thereof, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion, or exchange of stock or for the purpose of any other lawful action (other than shareholder action by written consent, which is governed by Section 2.9(b) hereof), the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board, for any such determination of shareholders, such date in any case to be not more than sixty (60) days, and, in the case of a record date for a meeting, not less than ten (10) days prior to such meeting. If the Board so fixes a record date for a meeting, such date shall also be the record date for determining the shareholders entitled to vote at such meeting unless the Board determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed:

(i) The record date for determining shareholders entitled to notice of or to vote at a meeting of shareholders shall be at the close of business on the day next preceding the day on which notice is given or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held.

(ii) The record date for determining shareholders for any other purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto.

(iii) A determination of shareholders of record entitled to notice of or to vote at a meeting of shareholders shall apply to any adjournment of the meeting; *provided*, *however*, that the Board may fix a new record date for the adjourned meeting.

(b) In order that the Corporation may determine the shareholders entitled to approve corporate action by consent without a meeting (including, without limitation, by telegram, cablegram or other electronic transmission as permitted by law), the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and which date shall not be more than ten (10) days after the date upon which the resolution fixing the record date is adopted by the Board. Any shareholder of record seeking to have the shareholders authorize or take corporate action by written consent shall, by written notice to the Secretary of the Corporation, request the Board to fix a record date. Such notice shall specify the action proposed to be consented to by shareholders. The Board shall promptly, but in all events within ten (10) days after the date on which such a request is received, adopt a resolution fixing the record date (unless a record date has previously been fixed by the Board pursuant to the first sentence of this paragraph). If no record date has been fixed by the Board within ten (10) days after the date on which such a request is received, the record date for determining shareholders entitled to approve corporate action by consent without a meeting, when no prior action by the Board is required by applicable law, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Corporation by delivering such consent to the Corporation's registered office in the State of Washington, the Corporation's principal place of business, or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of shareholders are recorded. Delivery made to the Corporation's registered office in the State of Washington, principal place of business, or such officer or agent shall be by hand or by certified or registered mail, return receipt requested.

2.10 Conduct of Meeting. The Chairman of the Board, if such office has been filled, and, if not, or if the Chairman of the Board is absent or otherwise unable to act, the President, shall preside at all meetings of shareholders. The Secretary shall keep the records of each meeting of shareholders. In the absence or inability to act of any such officer, such officer's duties shall be performed by the officer given the authority to act for such absent or non-acting officer under these Bylaws or by some person appointed by the meeting.

2.11 Inspectors. The Board may, and shall if required by law, in advance of any meeting of shareholders, appoint one or more inspectors to act at such meeting or any adjournment thereof. If any of the inspectors so appointed shall fail to appear or act, the chairman of the meeting shall, or if inspectors shall not have been appointed, the chairman of the meeting may, appoint one or more inspectors. Each inspector, before entering upon the discharge of his duties, shall take and sign an oath faithfully to execute the duties of inspector at such meeting with strict impartiality and according to the best of his ability. The inspectors shall determine the number of shares of capital stock of the Corporation

outstanding and the voting power of each, the number of shares represented at the meeting, the existence of a quorum, and the validity and effect of proxies and shall receive votes, ballots, or consents, hear and determine all challenges and questions arising in connection with the right to vote, count and tabulate all votes, ballots, or consents, determine the results, and do such acts as are proper to conduct the election or vote with fairness to all shareholders. On request of the chairman of the meeting, the inspectors shall make a report in writing of any challenge, request, or matter determined by them and shall execute a certificate of any fact found by them. No director or candidate for the office of director shall act as an inspector of an election of directors. Inspectors need not be shareholders.

2.12 Approval of Corporate Action by Shareholders Without Meeting. Any corporate action that may or is required to be approved at a meeting of the shareholders may be approved without a meeting or a vote, pursuant to the provisions of this Section 2.12.

(a) Unanimous Written Consent. If the Corporation is a public company (as defined in the WBCA), corporate action may be approved by means of execution of a single consent or multiple counterpart consents by all shareholders entitled to vote on the corporate action.

(b) Less Than Unanimous Written Consent. If the Corporation is not a public company (as defined in the WBCA), and if authorized by a general or limited authorization in the Charter, corporate action may be approved by means of execution of a single consent or multiple counterpart consents by shareholders holding of record or otherwise entitled to vote in the aggregate not less than the minimum number of votes that would be necessary to approve the corporate action at a meeting at which all shares entitled to vote on the corporate action were present and voted.

(c) Requirements for Shareholder Consents. Any shareholder consent in lieu of a meeting must (i) be in the form of a record; (ii) indicate the date of execution of the consent by each shareholder who executes it, which date must be on or after the applicable record date; (iii) describe the corporate action being approved; (iv) when delivered to each shareholder for execution, include or be accompanied by the same material that would have been required by the WBCA, the Charter or these Bylaws to be delivered to shareholders in or accompanying a notice of meeting at which the proposed corporate action would have been submitted for shareholder approval; and (v) be delivered to the Corporation for filing with the corporate records.

(d) General Provisions.

(i) Notice of Consent.

(A) Notice that shareholder consents are being sought under Section 2.12(a) or Section 2.12(b), as applicable, shall be given, by the Corporation or another person soliciting such consents, on or promptly after the record date, to all shareholders entitled to vote on the record date who have not yet executed the shareholder consent and, if the WBCA would otherwise require that notice of a meeting of shareholders to consider the proposed corporate action be given to nonvoting shareholders, to all nonvoting shareholders as of the record date. Such notice shall include or be accompanied by the same information required to be included in or to accompany the shareholder consent under Sections 2.12(c)(iii) and (iv).

(B) Promptly after delivery to the Corporation of shareholder consents sufficient to approve the corporate action under Section 2.12(a) or Section 2.12(b), as applicable, notice that sufficient shareholder consents have been executed to approve the corporate action shall be given by the Corporation to all shareholders entitled to vote on the record date, and, if the WBCA would otherwise require that notice of a meeting of shareholders to consider the proposed corporate action be given to nonvoting shareholders, to all nonvoting shareholders as of the record date. If the Corporation receives shareholder consents sufficient to approve the corporate action under Section 2.12(a) or Section 2.12(b), as applicable, as of or promptly after the record date, the notice required under this Section 2.12(d)(i)(B) may be combined with the notice required under Section 2.12(d)(i)(A).

(ii) Record Date. If not otherwise fixed by the Board, the record date for determining shareholders entitled to take action without a meeting is the date of execution indicated on the earliest dated shareholder consent, even though such shareholder consent may not have been delivered to the Corporation on that date.

(iii) Withdrawal of Consent. A shareholder may withdraw an executed shareholder consent by delivering a notice of withdrawal in the form of an executed record to the Corporation prior to the time when shareholder consents sufficient to approve the corporate action have been delivered to the Corporation.

(iv) Date of Signature. Every shareholder consent shall bear the date of execution of each shareholder that executes such consent.

(v) Time Allowed to Complete Execution of Consents. An executed shareholder consent is not effective to approve the corporate action referred to in the consent unless, within sixty (60) days of the earliest dated shareholder consent delivered to the Corporation, shareholder consents executed by a sufficient number of shareholders to approve the corporate action are delivered to the Corporation.

(vi) Effective Date of Shareholder Approval by Consent. Unless the shareholder consent specifies a later effective date, shareholder approval of corporate action by consent of the shareholders is effective when (A) executed shareholder consents sufficient to approve the corporate action are delivered to the Corporation, either at an address designated by the Corporation for delivery of such shareholder consents or at the Corporation's registered office, or to such electronic address, location or system as the Corporation may have designated for delivery of such shareholder consents, and (B) if corporate action is approved by less than unanimous consent, the period of advance notice (if any) required by the Charter to be given to any nonconsenting or nonvoting shareholders has been satisfied.

(vii) Inclusion in Corporate Records. Any shareholder consent obtained in accordance with this Section 2.12 shall be inserted in the Corporation's minute book as if it were the minutes of a meeting of the shareholders.

ARTICLE III
DIRECTORS

3.1 Management. The business and affairs of the Corporation shall be managed by or under the direction of the Board. The Board may exercise all such authority and powers of the Corporation and do all such lawful acts and things as are not by statute or the Charter directed or required to be exercised or done solely by the shareholders.

3.2 Number; Qualification; Election; Term. The number of directors that shall constitute the entire Board shall be five (5). The directors as of the date hereof shall be [●], [●], [●], [●] and [●] (such latter individual referred to herein as the "FA Director"). Except as otherwise provided by the Bylaws or the Charter, the directors shall be elected at each annual meeting of shareholders at which a quorum is present. Directors shall be elected by a plurality of the votes of the shares present in person or represented by proxy and entitled to vote on the election of directors and each director so chosen shall hold office until his successor is elected and qualified or, if earlier, until his death, resignation, or removal from office. None of the directors need be a shareholder of the Corporation or a resident of the State of Washington. Each director must have attained the age of majority. For so long as that certain financing agreement dated [●], 2012, by and among the Corporation, the lenders from time to time party thereto, [●], as agent for the lenders, and certain other parties thereto (as the same may be amended, restated, amended and restated, supplemented or otherwise modified from to time, the "Financing Agreement"), remains in effect or any obligations remain outstanding thereunder , no person nominated for election to the Board, as a successor to the FA Director (or his or her successor or subsequent successor thereof) or appointed to fill a vacancy in the Board which was held by the FA Director, shall be qualified to serve as a director unless the Required Lenders (as such term is defined in the Financing Agreement), by notice in writing from the Required Lenders to the Corporation, shall have approved and recommended to the Board such nominee or appointee, who shall be acceptable to the Required Lenders in their sole discretion (the "FA Director Qualification Requirement"), and no such person shall be entitled to serve, be elected or appointed as a replacement or successor to the FA Director unless such nomination or appointment has been made in compliance with the foregoing terms. The FA Director Qualification Requirement is expressly intended to prescribe, pursuant to Section 23B.08.020 of the Act, a qualification requirement for any successor to the FA Director (including any subsequent successor to his or her successor) so long as the Financing Agreement remains in effect or any obligations remain outstanding thereunder. If the Financing Agreement expires or is otherwise terminated, provided that in each case all obligations due thereunder or in connection therewith have been indefeasibly paid in full in cash, (i) the FA Director (or his or her successor) shall resign immediately without any further action by the Board or the Corporation's shareholders, (ii) within seven (7) days of such event, the remaining members of the Board shall appoint a new director to replace the FA Director (or his or her successor), who shall not be required to meet the FA Director Qualification Requirement, and (iii) the FA Director Qualification Requirement shall terminate and no longer be in effect.

3.3 Change in Number. No decrease in the number of directors constituting the entire Board shall have the effect of shortening the term of any incumbent director.

3.4 Vacancies. Except as otherwise provided in the Charter or these Bylaws, newly created directorships resulting from any vacancies on the Board resulting from death, resignation, retirement, disqualification, removal from office or any other cause shall, unless otherwise required by the WBCA, be filled only by the Board, provided that if the directors then in office constitute less than a quorum of the Board, they may fill the vacancy by the affirmative vote of a majority of the directors then in office, and provided further that any vacancy in the seat on the Board held by the FA Director (or any successor

thereto) shall be filled by the Board as promptly as practicable and shall only be filled in accordance with the FA Director Qualification Requirement.

3.5 Meetings of Directors. The directors may hold their meetings and may have an office and keep the books of the Corporation, except as otherwise provided by statute, in such place or places within or without the State of Washington as the Board may from time to time determine or as shall be specified in the notice of such meeting or duly executed waiver of notice of such meeting.

3.6 Annual Meeting. The annual meeting of the Board for the purpose of organization, the election of officers and the transaction of other business may be held on the same day and at the same place as the annual meeting of shareholders or at such other time and place (within or without the State of Washington) as shall be specified in a notice of the annual meeting of the Board given as hereinafter provided in Section 3.9 of this Article III.

3.7 Regular Meetings. Regular meetings of the Board shall be held at such times and places, if any, as shall be designated from time to time by resolution of the Board.

3.8 Special Meetings. Special meetings of the Board shall be held whenever called by the Chairman of the Board, the President, or any two members of the Board.

3.9 Notice. The Secretary shall give notice of each annual, regular or special meeting of the Board to each director for which notice is required, at least (i) twenty-four (24) hours before the meeting if by telephone or by being personally delivered or sent by telex, telecopy, electronic transmission (subject to compliance with Section 23B.01.410(2)(c) of the WBCA) or similar means or (ii) five (5) days before the meeting if delivered by mail to the director's residence or usual place of business. Such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with first class postage prepaid, or when transmitted if sent by telex, telecopy, electronic transmission (subject to compliance with Section 23B.01.410(2)(c) of the WBCA) or similar means. Neither the business to be transacted at, nor the purpose of, any annual, regular or special meeting of the Board need be specified in the notice or waiver of notice of such meeting. Any director may waive notice of any meeting by a writing signed by the director entitled to the notice, or by electronic transmission by the director, and filed with the minutes or corporate records. Notice of any such meeting need not be given to any director who shall attend such meeting without protesting, prior to or at its commencement, the lack of notice.

3.10 Quorum; Majority Vote. At all meetings of the Board, a majority of the directors fixed in the manner provided in these Bylaws shall constitute a quorum for the transaction of business. If at any meeting of the Board there be less than a quorum present, a majority of those present or any director solely present may adjourn the meeting from time to time without further notice. Unless the act of a greater number is required by law, the Charter, or these Bylaws, the act of a majority of the directors present at a meeting at which a quorum is in attendance shall be the act of the Board. At any time that the Charter provides that directors elected by the holders of a class or series of stock shall have more or less than one vote per director on any matter, every reference in these Bylaws to a majority or other proportion of directors shall refer to a majority or other proportion of the votes of such directors.

3.11 Procedure. At meetings of the Board, business shall be transacted in such order as from time to time the Board may determine. The Chairman of the Board, if such office has been filled, and, if not or if the Chairman of the Board is absent or otherwise unable to act, the President shall preside at all meetings of the Board. In the absence or inability to act of either such officer, a chairman shall be chosen by the Board from among the directors present. The Secretary of the Corporation shall act as the secretary of each meeting of the Board unless the Board appoints another person to act as secretary of the

meeting. The Board shall keep regular minutes of its proceedings which shall be placed in the minute book of the Corporation.

3.12 Compensation. The Board shall have the authority to fix the compensation, including fees and reimbursement of expenses, paid to directors for attendance at regular or special meetings of the Board or any committee thereof; *provided*, *however*, that nothing contained in these Bylaws shall be construed to preclude any director from serving the Corporation in any other capacity or receiving compensation therefor.

3.13 Chairman of the Board. The Chairman of the Board, if elected by the Board, shall have such powers and duties as may be prescribed by the Board. The Chairman of the Board shall have authority to preside at all meetings of the shareholders and of the Board.

3.14 Action by Board or Committees Without Meeting. Any corporate action that could be approved at a meeting of the Board or of any committee created by the Board may be approved without a meeting if one or more consents setting forth the corporate action so approved are executed by all the directors or by all the members of the committee, either before or after the corporate action becomes effective, and are delivered to the Corporation. Each such consent shall be set forth either (i) in an executed record or (ii), if the Corporation has designated an address, location or system to which the consent may be electronically transmitted and the consent is electronically transmitted to the designated address, location or system, in an executed electronically transmitted record. Corporate action approved by consent of directors without a meeting is effective when the last director executes the consent, unless the consent specifies a later effective date. The consent shall be inserted in the minute book as if it were the minutes of the Board or a committee meeting.

ARTICLE IV
COMMITTEES

4.1 Designation. The Board may, by resolution, designate one or more committees.

4.2 Number; Qualification; Term. Each committee shall consist of two or more directors appointed by resolution adopted by the Board. The number of committee members may be increased or decreased from time to time by resolution adopted by the Board. Each committee member shall serve as such until the earliest of (i) the expiration of his term as director, (ii) his resignation as a committee member or as a director, or (iii) his removal as a committee member or as a director.

4.3 Authority. Each committee, to the extent expressly provided in the resolution establishing such committee, shall have and may exercise all of the authority of the Board in the management of the business and property of the Corporation except to the extent expressly restricted by law, the Charter, or these Bylaws.

4.4 Committee Changes. The Board shall have the power at any time to fill vacancies in, to change the membership of, and to discharge any committee.

4.5 Regular Meetings. Regular meetings of any committee may be held at such time and place as may be designated from time to time by the committee and communicated to all members thereof at least (i) twenty-four (24) hours before the meeting if by telephone or by being personally delivered or sent by telex, telecopy, electronic transmission (subject to compliance with Section 23B.01.410(2)(c) of the WBCA) or similar means or (ii) five (5) days before the meeting if delivered by mail to the director's residence or usual place of business. Such notice shall be deemed to be delivered when deposited in the

United States mail so addressed, with postage prepaid, or when transmitted if sent by telex, telecopy, electronic transmission (subject to compliance with Section 23B.01.410(2)(c) of the WBCA) or similar means.

4.6 Special Meetings. Special meetings of any committee may be held whenever called by any committee member. The committee member calling any special meeting shall cause notice of such special meeting, including therein the time and place of such special meeting, to be given to each committee member at least (i) twenty-four (24) hours before the meeting if by telephone or by being personally delivered or sent by telex, telecopy, electronic transmission (subject to compliance with Section 23B.01.410(2)(c) of the WBCA) or similar means or (ii) five (5) days before the meeting if delivered by mail to the director's residence or usual place of business. Such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage prepaid, or when transmitted if sent by telex, telecopy, electronic transmission (subject to compliance with Section 23B.01.410(2)(c) of the WBCA) or similar means. Neither the business to be transacted at, nor the purpose of, any special meeting of any committee need be specified in the notice or waiver of notice of any special meeting.

4.7 Quorum; Majority Vote. At meetings of any committee, a majority of the number of members designated by the Board shall constitute a quorum for the transaction of business. If a quorum is not present at a meeting of any committee, a majority of the members present may adjourn the meeting from time to time, without notice other than an announcement at the meeting, until a quorum is present. The act of a majority of the members present at any meeting at which a quorum is in attendance shall be the act of a committee, unless the act of a greater number is required by law, the Charter, or these Bylaws.

4.8 Minutes. Each committee shall cause minutes of its proceedings to be prepared and shall report the same to the Board upon the request of the Board. The minutes of the proceedings of each committee shall be delivered to the Secretary of the Corporation for placement in the minute books of the Corporation.

4.9 Compensation. Committee members may, by resolution of the Board, be allowed a fixed sum and expenses of attendance, if any, for attending any committee meeting or a stated salary.

4.10 Responsibility. The designation of any committee and the delegation of authority to it shall not operate to relieve the Board or any director of any responsibility imposed upon it or such director by law.

ARTICLE V
NOTICE

5.1 Method. Whenever by statute, the Charter, or these Bylaws, notice is required to be given to any director, committee member or shareholder and no provision is made as to how such notice shall be given, personal notice shall not be required and any such notice may be given (i) in writing, by mail, postage prepaid, addressed to such committee member, director or shareholder at his address as it appears on the books or (in the case of a shareholder) the stock transfer records of the Corporation, or (ii) by any other method permitted by law (including, without limitation, by electronic transmission or facsimile telecommunication (in the case of a director or committee member who has consented to receive electronically transmitted notices or facsimile telecommunications, as applicable, and has designated (i) the address, location or system to which such notices may be electronically transmitted, or (ii) in the case of facsimile telecommunication, the number to which such notices may be sent) or by facsimile telecommunication, when directed to a number at which a shareholder has consented to receive

notice, electronic mail, when directed to an electronic mail address at which a shareholder has consented to receive notice, posting on an electronic network together with separate notice to a shareholder of such specific posting and by any other form of electronic transmission, when directed to a shareholder). Any notice required or permitted to be given by overnight courier service shall be deemed effective when dispatched with all charges prepaid and addressed as aforesaid. Any notice required or permitted to be given by telegram, cablegram or other electronic transmission as permitted by law shall be deemed effective at the time it is dispatched with all charges prepaid and addressed as aforesaid.

5.2 Waiver. Whenever any notice is required to be given to any shareholder, director, or committee member of the Corporation by statute, the Charter, or these Bylaws, a waiver thereof in writing, or by electronic transmission (subject to compliance with applicable law), executed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice. Attendance of a shareholder, director, or committee member at a meeting shall constitute a waiver of notice of such meeting, except where such person attends for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

ARTICLE VI
OFFICERS

6.1 Number; Titles; Term of Office. The officers of the Corporation shall be a Chief Executive Officer, a President, a Chief Financial Officer, a Secretary, and such other officers as the Board may from time to time elect or appoint, including, without limitation, one or more Vice Presidents (with each Vice President to have such descriptive title, if any, as the Board shall determine), and a Treasurer. Each officer shall hold office until his successor shall have been duly elected and shall have qualified, or, if earlier, until his death, or until he shall resign or shall have been removed in the manner hereinafter provided. Any two or more offices may be held by the same person. None of the officers need be a shareholder or a director of the Corporation or a resident of the State of Washington.

6.2 Removal. Any officer or agent elected or appointed by the Board may be removed by the Board whenever in its judgment the best interest of the Corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

6.3 Vacancies. Any vacancy occurring in any office of the Corporation (by death, resignation, removal, or otherwise) may be filled by the Board.

6.4 Authority. Officers shall have such authority and perform such duties in the management of the Corporation as are provided in these Bylaws or as may be determined by resolution of the Board not inconsistent with these Bylaws.

6.5 Compensation. The compensation, if any, of officers and agents shall be fixed from time to time by the Board; *provided*, *however*, that the Board may delegate the power to determine the compensation of any officer and agent (other than the officer to whom such power is delegated) to the Chairman of the Board or the President.

6.6 Chief Executive Officer. The Chief Executive Officer shall be the chief executive officer of the Corporation and shall have the powers and perform the duties incident to that position. If the Chief Executive Officer is a director, he shall, in the absence of the Chairman of the Board, or if a Chairman of the Board shall not have been elected, preside at each meeting of the Board or the shareholders. Subject

to the powers of the Board, he shall be in the general and active charge of the entire business and affairs of the Corporation, including authority over its officers, agents and employees, and shall have such other duties as may from time to time be assigned to him by the Board. The Chief Executive Officer shall see that all orders and resolutions of the Board are carried into effect, and execute bonds, mortgages and other contracts requiring a seal under the seal of the Corporation, except where required or permitted by law to be otherwise signed and executed and except where the signing and execution thereof shall be expressly delegated by the Board to some other officer or agent of the Corporation.

6.7 President. The President shall be the chief operating officer of the Corporation. He shall perform all duties incident to the office of President, and be responsible for the general direction of the operations of the business, reporting to the Chief Executive Officer, and shall have such other duties as may from time to time be assigned to him by the Board or as may be provided in these Bylaws. At the written request of the Chief Executive Officer, or in his absence or in the event of his inability to act, the President shall perform the duties of the Chief Executive Officer, and, when so acting, shall have the powers of and be subject to the restrictions placed upon the Chief Executive Officer in respect of the performance of such duties.

6.8 Chief Financial Officer. The Chief Financial Officer shall (i) have charge and custody of, and be responsible for, all the funds and securities of the Corporation, (ii) keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation, (iii) deposit all moneys and other valuables to the credit of the Corporation in such depositories as may be designated by the Board or pursuant to its direction, (iv) receive, and give receipts for, moneys due and payable to the Corporation from any source whatsoever, (v) disburse the funds of the Corporation and supervise the investments of its funds, taking proper vouchers therefor, (vi) render to the Board, whenever the Board may require, an account of the financial condition of the Corporation, and (vii) in general, perform all duties incident to the office of Chief Financial Officer and such other duties as from time to time may be assigned to him by the Board. The Chief Financial Officer may also be the Treasurer if so determined by the Board and perform the duties hereinafter provided in Section 6.10 of this Article VI.

6.9 Vice Presidents. Each Vice President shall have such powers and duties as may be assigned to him by the Board or the President, and (in order of their seniority as determined by the Board or, in the absence of such determination, as determined by the length of time they have held the office of Vice President) shall exercise the powers of the President during that officer's absence or inability to act. As between the Corporation and third parties, any action taken by a Vice President in the performance of the duties of the President shall be conclusive evidence of the absence or inability to act of the President at the time such action was taken.

6.10 Treasurer. The Treasurer shall have custody of the Corporation's funds and securities, shall keep full and accurate account of receipts and disbursements, shall deposit all monies and valuable effects in the name and to the credit of the Corporation in such depository or depositories as may be designated by the Board, and shall perform such other duties as may be prescribed by the Board or the President.

6.11 Assistant Treasurers. Each Assistant Treasurer shall have such powers and duties as may be assigned to him by the Board or the President. The Assistant Treasurers (in the order of their seniority as determined by the Board or, in the absence of such a determination, as determined by the length of time they have held the office of Assistant Treasurer) shall exercise the powers of the Treasurer during that officer's absence or inability to act.

6.12 Secretary. Except as otherwise provided in these Bylaws, the Secretary shall keep the minutes of all meetings of the Board and of the shareholders in books provided for that purpose, and he shall attend to the giving and service of all notices. The Secretary shall have custody of the corporate seal of the Corporation (if any) and shall have authority to affix the same to any instrument requiring it and to attest it. He shall have charge of the certificate books, transfer books, and stock papers as the Board may direct, all of which shall at all reasonable times be open to inspection by any director upon application at the office of the Corporation during ordinary business hours. He shall in general perform all duties incident to the office of the Secretary, subject to the control of the Board and the President.

6.13 Assistant Secretaries. Each Assistant Secretary shall have such powers and duties as may be assigned to him by the Board or the President. The Assistant Secretaries (in the order of their seniority as determined by the Board or, in the absence of such a determination, as determined by the length of time they have held the office of Assistant Secretary) shall exercise the powers of the Secretary during that officer's absence or inability to act.

ARTICLE VII
CERTIFICATES AND SHAREHOLDERS

7.1 Certificates for Shares. The Board may issue stock certificates, or may provide by resolution or resolutions that some or all of any or all classes or series of stock of the Corporation shall be uncertificated shares of stock. Any issued stock certificates for shares of stock or series of stock of the Corporation shall be in such form as shall be approved by the Board. The certificates shall be signed by the Chairman of the Board or the President or a Vice President and also by the Secretary or an Assistant Secretary or by the Treasurer or an Assistant Treasurer. Any and all signatures on the certificate may be sealed with the seal of the Corporation or a facsimile thereof. If any officer, transfer agent, or registrar who has signed, or whose facsimile signature has been placed upon, a certificate has ceased to be such officer, transfer agent, or registrar before such certificate is issued, such certificate may be issued by the Corporation with the same effect as if he were such officer, transfer agent, or registrar at the date of issue. The certificates shall be consecutively numbered and shall be entered in the books of the Corporation as they are issued and shall exhibit the holder's name and the number of shares. A certificate representing shares issued by the Corporation shall, if the Corporation is authorized to issue more than one class or series of stock, set forth upon the face or back of the certificate, or shall state that the Corporation will furnish to any shareholder upon request and without charge, a full statement of the designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights. The Corporation shall furnish to any holder of uncertificated shares, upon request and without charge, a full statement of the designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

7.2 Replacement of Lost or Destroyed Certificates. The Board may direct a new certificate or certificates to be issued in place of a certificate or certificates theretofore issued by the Corporation and alleged to have been lost or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate or certificates representing shares to be lost or destroyed. When authorizing such issue of a new certificate or certificates the Board may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost or destroyed certificate or certificates, or his legal representative, to advertise the same in such manner as it shall require and/or to give the Corporation a bond with a surety or sureties satisfactory to the Corporation in such sum as it may direct as indemnity against any claim, or expense resulting from a claim, that may be made against the Corporation in respect of the certificate or certificates alleged to have been lost or destroyed.

7.3 Facsimile Signatures. Any or all of the signatures on a certificate may be a facsimile, engraved or printed. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he were such officer, transfer agent or registrar at the date of issue.

7.4 Transfer of Shares. Shares of stock of the Corporation shall be transferable only on the books of the Corporation by the holders thereof in person or by their duly authorized attorneys or legal representatives. Upon surrender to the Corporation or the transfer agent of the Corporation of a certificate (if any) representing shares duly endorsed or accompanied by proper evidence of succession, assignment, or authority to transfer, the Corporation or its transfer agent shall issue (if requested) a new certificate to the person entitled thereto, cancel the old certificate (if any), and record the transaction upon its books, *provided*, *however*, that the Corporation shall be entitled to recognize and enforce any lawful restriction on transfer.

7.5 Registered Shareholders. The Corporation shall be entitled to treat the holder of record of any share or shares of stock as the holder in fact thereof and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by law.

7.6 Regulations. The Board shall have the power and authority to make all such rules and regulations as it may deem expedient concerning the issue, transfer, and registration or the replacement of certificates for shares of stock of the Corporation.

7.7 Legends. The Board shall have the power and authority to provide that certificates representing shares of stock bear such legends as the Board deems appropriate to assure that the Corporation does not become liable for violations of federal or state securities laws or other applicable law.

ARTICLE VIII
INDEMNIFICATION

8.1 Nature of Indemnity. Each person who was or is made a party or is threatened to be made a party to or is involved (including, without limitation, as a witness) in any actual or threatened action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he is or was a director or officer of the Corporation or is or was serving at the request of the Corporation as a director or officer of another corporation or of a partnership, limited liability company, joint venture, trust or other enterprise, including, without limitation, service with respect to an employee benefit plan (hereinafter, an "Indemnitee"), whether the basis of such proceeding is alleged action in an official capacity as a director or officer or in any other capacity while so serving, shall be indemnified and held harmless by the Corporation to the full extent permitted by the WBCA, as the same exists or may hereafter be amended, or by other applicable law as then in effect, against all expense, liability and loss (including, without limitation, attorneys' fees, costs and charges, judgments, fines, excise taxes or penalties under the Employee Retirement Income Security Act of 1974, as amended from time to time ("ERISA"), penalties and amounts paid or to be paid in settlement) actually and reasonably incurred or suffered by such Indemnitee in connection therewith; *provided*, *however*, that except as provided in Section 8.3 of this Article VIII with respect to proceedings to enforce rights to indemnification, the Corporation shall indemnify any such Indemnitee in connection with a proceeding (or part thereof) initiated by such Indemnitee only if such proceeding (or part thereof) was authorized by

the Board. Each person who is or was serving as a director or officer of a majority-owned subsidiary of the Corporation shall be deemed to be serving, or have served, at the request of the Corporation.

8.2 Advances for Expenses. Reasonable expenses (including, without limitation, attorneys' fees, costs and charges) incurred by an Indemnitee in defending a proceeding shall be paid by the Corporation in advance of the final disposition of such proceeding upon receipt of (a) a written affirmation of the director's good faith belief that the director has met the standard of conduct described in Section 23B.08.510 of the WBCA, and (b) an undertaking by or on behalf an Indemnitee to repay all amounts so advanced in the event that it shall ultimately be determined by final judicial decision from which there is no further right to appeal that such Indemnitee is not entitled to be indemnified by the Corporation as authorized in this Article VIII. The Board may, upon approval of such Indemnitee, authorize the Corporation's counsel to represent such person in any proceeding, whether or not the Corporation is a party to such proceeding.

8.3 Procedure for Indemnification and Advancement. Any indemnification or advance of expenses (including, without limitation, attorney's fees, costs and charges) under this Article VIII shall be made promptly, and in any event within 60 days, or, in the case of a claim for an advancement of expenses, within 20 days, upon the written request of an Indemnitee (and, in the case of advance of expenses, receipt of a written undertaking by or on behalf of such Indemnitee to repay such amount if it shall ultimately be determined that such Indemnitee is not entitled to be indemnified therefor pursuant to the terms of this Article VIII). The right to indemnification or advancement as granted by this Article VIII shall be enforceable by such Indemnitee in any court of competent jurisdiction, if the Corporation denies such request, in whole or in part, or if no disposition thereof is made within 60 days (or 20 days with respect to advancement of expenses). Such Indemnitee's costs and expenses incurred in connection with successfully establishing his right to indemnification or advancement, in whole or in part, in any such action shall also be indemnified by the Corporation to the fullest extent permitted by law. It shall be a defense to any such action (other than an action brought to enforce a claim for the advance of expenses (including, without limitation, attorney's fees, costs and charges) under this Article VIII where the required affirmation and undertaking, if any, has been received by the Corporation) that the claimant has not met the standard of conduct set forth in the WBCA, as the same exists or hereafter may be amended, but the burden of proving such defense shall be on the Corporation. Neither the failure of the Corporation (including its directors who are not parties to such action, a committee of such directors, independent legal counsel or its shareholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he has met the applicable standard of conduct set forth in the WBCA, as the same exists or hereafter may be amended, nor the fact that there has been an actual determination by the Corporation (including its directors who are not parties to such action, a committee of such directors, independent legal counsel or its shareholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

8.4 Other Rights; Continuation of Right to Indemnification. The indemnification and advancement of expenses provided by this Article VIII shall not be deemed exclusive of any other rights to which a person seeking indemnification or advancement of expenses may be entitled under any law (common or statutory), bylaw, agreement, vote of shareholders or directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding office or while employed by or acting as agent for the Corporation, and shall continue as to a person who has ceased to be a director or officer, and shall inure to the benefit of the estate, heirs, executors and administers of such person. All rights to indemnification and advancement of expenses under this Article VIII shall be deemed to be a contract between the Corporation and each Indemnitee. Any repeal or modification of this Article VIII or any repeal or modification of relevant provisions of the WBCA or any other applicable laws shall not in

any way diminish any rights to indemnification or to advancement of expenses of such Indemnitee or the obligations of the Corporation arising hereunder with respect to any proceeding arising out of, or relating to, any actions, transactions or facts occurring prior to the final adoption of such repeal or modification.

8.5 Insurance. The Corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director or officer of the Corporation, or is or was serving at the request of the Corporation as a director or officer of another corporation, partnership, limited liability company, joint venture, trust or other enterprise (including, without limitation, with respect to an employee benefit plan), against any liability asserted against him and incurred by him or on his behalf in any such capacity, or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions of this Article VIII; *provided*, *however*, that such insurance is available on acceptable terms, which determination shall be made by a vote of a majority of the Board.

8.6 Savings Clause. If this Article VIII or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify each person entitled to indemnification under the first paragraph of this Article VIII as to all expense, liability and loss (including, without limitation, attorneys' fees, costs and charges, fines, ERISA excise taxes and penalties, penalties and amounts paid or to be paid in settlement) actually and reasonably incurred or suffered by such person and for which indemnification is available to such person pursuant to this Article VIII to the full extent permitted by any applicable portion of this Article VIII that shall not have been invalidated and to the full extent permitted by applicable law.

ARTICLE IX
MISCELLANEOUS PROVISIONS

9.1 Dividends. Subject to provisions of law and the Charter, dividends may be declared by the Board at any regular or special meeting and may be paid in cash, in property, or in shares of stock of the Corporation. Such declaration and payment shall be at the discretion of the Board.

9.2 Reserves. There may be created by the Board out of funds of the Corporation legally available therefor such reserve or reserves as the Board from time to time, in its discretion, considers proper to provide for contingencies, to equalize dividends, or to repair or maintain any property of the Corporation, or for such other purpose as the Board shall consider beneficial to the Corporation, and the Board may modify or abolish any such reserve in the manner in which it was created.

9.3 Books and Records. The Corporation shall keep correct and complete books and records of account, shall keep minutes of the proceedings of its shareholders and Board and shall keep at its registered office or principal place of business, or at the office of its transfer agent or registrar, a record of its shareholders, giving the names and addresses of all shareholders and the number and class of the shares held by each.

9.4 Fiscal Year. The fiscal year of the Corporation shall be fixed by the Board; *provided*, *however*, that if such fiscal year is not fixed by the Board and the selection of the fiscal year is not expressly deferred by the Board, the fiscal year shall be the calendar year.

9.5 Seal. The seal of the Corporation shall be such as from time to time may be approved by the Board.

9.6 Resignations. Any director, committee member, or officer may resign by so stating at any meeting of the Board or by giving written notice to the Board, the Chairman of the Board, the President, or the Secretary. Such resignation shall take effect at the time specified therein or, if no time is specified therein, immediately upon its receipt. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

9.7 Securities of Other Corporations. The Chairman of the Board, the President, or any Vice President of the Corporation shall have the power and authority to transfer, endorse for transfer, vote, consent, or take any other action in respect of any securities of another issuer that may be held or owned by the Corporation and to make, execute, and deliver any waiver, proxy, or consent in respect of any such securities.

9.8 Telephone Meetings. Members of the Board, members of a committee of the Board and the shareholders may participate in and hold a meeting by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this Section 9.8 shall constitute presence in person at such meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

9.9 Treasury Regulation 1.382-3. For purposes of applying Article VI of the Charter, if the Board reasonably believes that any person may have violated the Article VI provisions (including whether a person is part of an single entity under Treasury Regulation Section 1.382-3 and thus is a Substantial Holder), then the Board shall be authorized to require such person to provide such information, representations, agreements and/or opinions of counsel (which if required shall be "should" level opinions issued by nationally recognized counsel approved by the Board, and for the avoidance of doubt, can include the shareholder's regular counsel) in support of the position that no violation has occurred.

9.10 Invalid Provisions. If any part of these Bylaws shall be held invalid or inoperative for any reason, the remaining parts, so far as it is possible and reasonable, shall remain valid and operative.

9.11 Mortgages, etc. In respect of any deed, deed of trust, mortgage, or other instrument executed by the Corporation through its duly authorized officer or officers, the attestation to such execution by the Secretary of the Corporation shall not be necessary to constitute such deed, deed of trust, mortgage, or other instrument a valid and binding obligation against the Corporation unless the resolutions, if any, of the Board authorizing such execution expressly state that such attestation is necessary.

9.12 Headings. The headings used in these Bylaws have been inserted for administrative convenience only and do not constitute matter to be construed in interpretation.

9.13 References. Whenever herein the singular number is used, the same shall include the plural where appropriate, and words of any gender should include each other gender where appropriate.

9.14 Amendments. These Bylaws may be amended or repealed or new Bylaws adopted only in accordance with Article VII of the Charter.

The undersigned, the Secretary of the Corporation, hereby certifies that the foregoing Bylaws were adopted by unanimous consent by the directors of the Corporation on _____, 2012.

[Name], Secretary

Exhibit C

Form of Amended and Restated Articles of Incorporation of Reorganized WMI

FORM

OF

[WASHINGTON MUTUAL, INC.]

AMENDED AND RESTATED ARTICLES OF INCORPORATION

The following Amended and Restated Articles of Incorporation are executed by the undersigned, a Washington corporation:

1. The name of the corporation is [Washington Mutual, Inc.]

2. The text of the corporation's Amended and Restated Articles of Incorporation is as follows:

ARTICLE I. NAME

The name of the Corporation is [Washington Mutual, Inc.] (the "***Corporation***").

ARTICLE II. REGISTERED AGENT

The address of the registered office of the Corporation in the State of Washington is 300 Deschutes Way SW, Suite 304, Tumwater WA 98501. The name of the registered agent of the Corporation in the State of Washington at such address is Corporation Service Company.

ARTICLE III. PURPOSE

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the Washington Business Corporation Act, as from time to time amended (the "***Act***").

ARTICLE IV. CAPITALIZATION

The total number of shares of all classes of capital stock which the Corporation shall have authority to issue is [_____] shares, of which:

[Five Hundred Million] (500,000,000)[1] shares, par value $0.00001 per share, shall be shares of common stock (the "***Common Stock***"); and

Five Million (5,000,000) shares, par value $0.00001 per share, shall be shares of preferred stock (the "***Preferred Stock***").

1. COMMON STOCK. Except as (i) otherwise required by law or (ii) expressly provided in these Articles of Incorporation, each share of Common Stock shall

[1] NTD: Plan provides for 200,000,000 shares of common stock to be issued as of the Effective Date.

have the same powers, rights and privileges and shall rank equally, share ratably and be identical in all respects as to all matters.

a. DIVIDENDS. Subject to the rights of the holders of Preferred Stock, and to the other provisions of these Articles of Incorporation, holders of Common Stock shall be entitled to receive equally, on a per share basis, such dividends and other distributions in cash, securities or other property of the Corporation as may be declared thereon by the Board of Directors from time to time out of assets or funds of the Corporation legally available therefor.

b. VOTING RIGHTS. At every annual or special meeting of shareholders of the Corporation, each holder of Common Stock shall be entitled to cast one (1) vote for each share of Common Stock standing in such holder's name on the stock transfer records of the Corporation; *provided, however*, that, except as otherwise required by law, holders of Common Stock, as such, shall not be entitled to vote on any amendment to these Articles of Incorporation (including, without limitation, to vote on any certificate of designation (or any amendment thereto) relating to any series of Preferred Stock) that solely amends, modifies or alters the terms of one or more outstanding series of Preferred Stock if, pursuant to the terms of such outstanding series, the holders of such Preferred Stock are entitled, either separately or together with the holders of one or more other such series, to the exclusion of the holders of the Common Stock, to vote thereon pursuant to these Articles of Incorporation (including, without limitations, any certificate of designation relating to any series of Preferred Stock).

c. PREEMPTIVE RIGHTS. Shareholders of the Corporation shall have no preemptive rights to acquire additional shares of stock or securities convertible into shares of stock of the Corporation.

2. PREFERRED STOCK. The Preferred Stock may be issued from time to time in one or more series in any manner permitted by law and the provisions of these Articles of Incorporation, as determined from time to time by the Board of Directors and stated in the resolution or resolutions providing for its issuance, prior to the issuance of any shares. The Board of Directors shall have the authority to fix and determine and to amend, subject to these provisions, the designation, preferences, limitations and relative rights of the shares of any series that is wholly unissued or to be established. Unless otherwise specifically provided in the resolution establishing any series, the Board of Directors shall further have the authority, after the issuance of shares of a series whose number it has designated, to amend the resolution establishing such series to decrease the number of shares of that series, but not below the number of shares of such series then outstanding. The authority of the Board of Directors under this Section 2 of Article IV may be delegated to a committee of the Board of Directors or to a senior executive officer of the Corporation to the extent permitted under Section 23B.08.250(5)(g) of the Act.

ARTICLE V. NO NON-VOTING EQUITY SECURITIES

Pursuant to Section 1123(a)(6) of the title II of the United States Code (the "***Bankruptcy Code***"), notwithstanding any other provision contained herein to the contrary, the Corporation shall not issue non-voting equity securities.

ARTICLE VI. RESTRICTIONS ON TRANSFER OF SECURITIES

It is in the best interests of the Corporation and its shareholders that certain restrictions on the transfer or other disposition of shares of Common Stock, as relates to the preservation of certain tax attributes, be established as more fully set forth in this Article VI.

1. Definitions. As used in this Article VI, the following capitalized terms shall have the following respective meanings (and any references to any portions of Treasury Regulation Section 1.382-2T shall include any successor provision thereto):

"***Acquire***" means the acquisition, directly or indirectly, of ownership of Corporation Securities by any means, including, without limitation, (i) the exercise of any rights under any option, warrant, convertible security, pledge or other security interest or similar right to acquire shares, (ii) the entering into of any swap, hedge or other arrangement that results in the acquisition of any of the economic consequences of ownership of Corporation Securities, or (iii) any other acquisition or transaction treated under the applicable rules under Section 382 of the Code as a direct or indirect acquisition (including the acquisition of an ownership interest in a Substantial Holder), but shall not include the acquisition of any such rights unless, as a result, the acquiror would be considered an owner within the meaning of the tax laws. The terms "***Acquires***" and "***Acquisition***" shall have the same meaning.

"***Board***" means the board of directors of the Corporation.

"***Code***" means the Internal Revenue Code of 1986, as amended from time to time.

"***Corporation Securities***" means (i) shares of Common Stock, (ii) any other interests that would be treated as "stock" of the Corporation pursuant to Treasury Regulation Section 1.382-2T(f)(18), and (iii) warrants, rights or options (including within the meaning of Treasury Regulation Section 1.382-4(d)(9)) to purchase Corporation Securities, but only to the extent such warrants, rights or options are treated as exercised pursuant to Treasury Regulation Section 1.382-4(d).

"***Disposition***" means the sale, transfer, exchange, assignment, liquidation, conveyance, pledge, or other disposition or transaction treated under the applicable rules under Section 382 of the Code as a direct or indirect disposition (including the disposition of an ownership interest in a Substantial Holder). The terms "Dispose" and "Disposition" shall have the same meaning.

"***DTC***" means The Depository Trust Company.

"***Effective Date***" means the effective date of the Plan, which shall be the date of filing of these Articles of Incorporation.

"***Percentage Stock Ownership***" means percentage stock ownership as determined in accordance with Treasury Regulation Section 1.382-2T(g), (h) (without regard to the rule that treats stock of an entity as to which the constructive ownership rules apply as no longer owned by that entity), (j) and (k), and Treasury Regulation Section 1.382-4.

"***Person***" means an individual, corporation, estate, trust, association, limited liability company, partnership, joint venture or similar organization or "entity" within the

meaning of Treasury Regulation Section 1.382-3 (including, without limitation, any group of Persons treated as a single entity under such regulation).

"***Plan***" means the Seventh Amended Joint Plan of Washington Mutual, Inc. and WMI Investment Corp. pursuant to Chapter 11 of the Bankruptcy Code.

"***Prohibited Transfer***" means any purported Transfer of Corporation Securities to the extent that such Transfer is prohibited and/or void under this Article VI.

"***Restriction Release Date***" means the earliest of (i) any date after the Effective Date if the Board in good faith determines that it is in the best interests of the Corporation and its shareholders for the ownership and transfer limitations set forth in this Article VI to expire, (ii) the beginning of a taxable year of the Corporation as of which no Tax Benefits are available, or (iii) December 31, 2030.

"***Substantial Holder***" means a Person (including, without limitation, any group of Persons treated as a single "entity" within the meaning of the Treasury Regulation Section 1.382-3) holding Corporation Securities, whether as of the Effective Date, after giving effect to the Plan, or thereafter, representing a Percentage Stock Ownership (including indirect ownership, as determined under applicable Treasury Regulations) in the Corporation of at least 4.75%.

"***Tax Benefits***" means the net operating loss carryovers, capital loss carryovers, general business credit carryovers, alternative minimum tax credit carryovers and foreign tax credit carryovers, as well as any "net unrealized built-in loss" within the meaning of Section 382 of the Code, of the Corporation or any direct or indirect subsidiary thereof.

"***Transfer***" means any direct or indirect Acquisition or Disposition of Corporation Securities.

"***Treasury Regulation***" means a Treasury regulation promulgated under the Code.

2. Ownership Limitations.

(a) To the fullest extent permitted by law, from and after the Effective Date and prior to the Restriction Release Date:

(A) no Person shall be permitted to make an Acquisition, whether in a single transaction or series of related transactions, and any such purported Acquisition will be *void ab initio*, to the extent that after giving effect to such purported Acquisition (i) the purported acquiror or any other Person by reason of the purported acquiror's Acquisition would become a Substantial Holder, or (ii) the Percentage Stock Ownership of a Person that, prior to giving effect to the purported Acquisition, is a Substantial Holder would be increased; and

(B) no Substantial Holder shall Dispose of any Corporation Securities without consent of the Board, as provided in Section 2(b) of this Article VI, and any such purported Disposition will be *void ab initio*.

The prior sentence is not intended to prevent the Corporation Securities from being DTC-eligible and shall not preclude the settlement of any transactions in the Corporation Securities entered into through the facilities of a national securities exchange, but such transaction, if prohibited by the prior sentence, shall nonetheless be a Prohibited Transfer.

(b) The restrictions set forth in Section 2(a) of this Article VI shall not apply to a proposed Transfer, and such Transfer shall be permitted notwithstanding anything to the contrary in Section 2(a), if the transferor or the transferee, upon providing at least fifteen (15) days prior written notice of such proposed Transfer to the Board, obtains the written approval or consent to the proposed Transfer from the Board. The Board will consider whether the proposed Transfer, when considered alone or with other proposed or planned Transfers, will impair the Corporation's Tax Benefits and may, within its discretion, determine whether to permit the proposed Transfer, or not to permit the proposed Transfer, in order to protect the Corporation's Tax Benefits. If a Substantial Holder proposes to Dispose of stock in a transaction that would otherwise be limited by Section 2(a)(B) of this Article VI, the Board shall approve such proposed Disposition, unless the Board determines in good faith that the proposed Disposition, whether considered alone or with other transactions (including, without limitation, past transactions or contemplated transactions), would create a material risk that the Corporation's Tax Benefits may be jeopardized. The Board shall endeavor to inform the requesting party of its determination within ten (10) days after receiving such written notice; *provided, however*, that the failure of the Board to respond during such ten (10) day period shall not be deemed to be a consent to the Transfer. As a condition to granting its consent (and in the case of Dispositions, subject to the standard set forth in the third sentence of this Section 2(b)), the Board may, in its discretion, require and/or obtain (at the expense of the transferor and/or transferee) such representations and/or agreements from the transferor and/or transferee, such opinions of counsel to be rendered by nationally recognized counsel approved by the Board (which for the avoidance of doubt may include the regular counsel for the transferor or transferee), and such other advice, in each case as to such matters as the Board determines is appropriate. The Board may waive the restrictions imposed in this Article VI, in whole or in part, in circumstances where it believes doing so would be to be beneficial to shareholders of the Corporation taken as a whole.

3. Treatment of Excess Securities.

(a) No employee or agent of the Corporation shall record any Prohibited Transfer, and the purported transferee (the "***Purported Transferee***") of a Prohibited Transfer shall not be recognized as a shareholder of the Corporation for any purpose whatsoever in respect of the Corporation Securities which are the subject of the Prohibited Transfer (the "***Excess Securities***"). Until the Excess Securities are acquired by another Person in a Transfer that is not a Prohibited Transfer, the Purported Transferee shall not be entitled with respect to such Excess Securities to any rights of shareholders of the Corporation, including, without limitation, the right to vote such Excess Securities and to receive dividends or distributions, whether liquidating or otherwise, in respect thereof. Once the Excess Securities have been acquired in a Transfer that is in accordance with this Section 3 of this Article VI and is not a Prohibited Transfer, such Corporation Securities shall cease to be Excess Securities.

(b) If the Board determines that a Prohibited Transfer has occurred, such Prohibited Transfer and, if applicable, the recording of such Prohibited Transfer, shall, to the fullest extent permitted by law, be *void ab initio* and have no legal effect and, upon written

demand by the Corporation, the Purported Transferee shall transfer or cause to be transferred any certificate or other evidence of ownership of the Excess Securities within the Purported Transferee's possession or control, together with any dividends or other distributions that were received by the Purported Transfer from the Corporation with respect to the Excess Securities (the "***Prohibited Distributions***"), to an agent designated by the Board (the "***Agent***").

(A) In the case of a Prohibited Transfer described in Section 2(a)(A) of this Article VI, the Agent shall thereupon sell to a buyer or buyers, the Excess Securities transferred to it in one or more arm's-length transactions (including over a national securities exchange on which the Corporation Securities may be traded, if possible); *provided, however*, that the Agent, in its sole discretion, shall effect such sale or sales in an orderly fashion and shall not be required to effect any such sale within any specific time frame if, in the Agent's discretion, such sale or sales would disrupt the market for the Corporation Securities or otherwise would adversely affect the value of the Corporation Securities. If the Purported Transferee has resold the Excess Securities before receiving the Corporation's demand to surrender the Excess Securities to the Agent, the Purported Transferee shall be deemed to have sold the Excess Securities for the Agent, and shall be required, to the fullest extent permitted by law, to transfer to the Agent any Prohibited Distributions and proceeds of such sale, except to the extent that the Corporation grants written permission to the Purported Transferee to retain a portion of such sales proceeds not exceeding the amount that the Purported Transferee would have received from the Agent pursuant to Section 3(c) of this Article VI if the Agent, rather than the Purported Transferee, had resold the Excess Securities.

(B) In the case of a Prohibited Transfer described in Section 2(a)(B) of this Article VI, the transferor of such Prohibited Transfer (the "***Purported Transferor***") shall also deliver to the Agent the sales proceeds from the Prohibited Transfer (in the form received, i.e., whether in cash or other property), and the Agent shall thereupon sell any non-cash consideration to a buyer or buyers in one or more arm's-length transactions (including over a national securities exchange, if possible). If the Purported Transferee is determinable (other than with respect to a transaction entered into through the facilities of a national securities exchange), the Agent shall, to the extent possible, return the Prohibited Distributions to the Purported Transferor, and shall reimburse the Purported Transferee from the sales proceeds received from the Purported Transferor (or the proceeds from the disposition of any non-cash consideration) for the cost of any Excess Securities returned in accordance with Section 3(c) of this Article VI. If the Purported Transferee is not determinable, or to the extent the Excess Securities have been resold and thus cannot be returned to the Purported Transferor, the Agent shall use the proceeds to acquire on behalf of the Purported Transferor, in one or more arm's-length transactions (including over a national securities exchange on which the Corporation Securities may be traded, if possible), an equal amount of Corporation Securities in replacement of the Excess Securities sold; *provided, however*, that, to the extent the amount of proceeds is not sufficient to fund the purchase price of such Corporation Securities and the Agent's costs and expenses (as described in Section 3(c) of this Article VI), the Purported Transferor shall promptly fund such amounts upon demand by the Agent.

(c) The Agent shall apply any proceeds or any other amounts received by it and in accordance with Section 3 of this Article VI as follows:

(A) *first*, such amounts shall be paid to the Agent to the extent necessary to cover its costs and expenses incurred in connection with its duties hereunder;

(B) *second*, any remaining amounts shall be paid to the Purported Transferee, up to the amount actually paid by the Purported Transferee, for the Excess Securities (or in the case of any Prohibited Transfer by gift, devise or inheritance or any other Prohibited Transfer without consideration, the fair market value, (x) calculated on the basis of the closing market price for the Corporation Securities on the day before the Prohibited Transfer or (y) if the Corporation Securities are not listed or admitted to trading on any stock exchange but are traded in the over-the-counter market, calculated based upon the difference between the highest bid and lowest asked prices, as such prices are reported by the National Association of Securities Dealers through its NASDAQ system or any successor system on the day before the Prohibited Transfer or, if none, on the last preceding day for which such quotations exist, or (z) if the Corporation Securities are neither listed nor admitted to trading on any stock exchange nor traded in the over-the counter market, then as determined in good faith by the Board, which amount (or fair market value) shall be determined at the discretion of the Board); and

(C) *third*, any remaining amounts, subject to the limitations imposed by the following proviso, shall be paid to one or more organizations qualifying under Section 501(c)(3) of the Code (or any comparable successor provision) ("***Section 501(c)(3)***") selected by the Board; *provided, however*, that, if the Excess Securities (including any Excess Securities arising from a previous Prohibited Transfer not sold by the Agent in a prior sale or sales) represent a 4.75% or greater Percentage Stock Ownership interest in the Corporation, then such remaining amounts shall be paid to two or more organizations qualifying under Section 501 (c)(3) selected by the Board, such that no organization qualifying under Section 501(c)(3) shall possess Percentage Stock Ownership in the Corporation in excess of 4.74%.

The recourse of any Purported Transferee in respect of any Prohibited Transfer shall be limited to the amount payable to the Purported Transferee pursuant to clause (B) above. Except as may be required by law, in no event shall the proceeds of any sale of Excess Securities pursuant to this Article VI inure to the benefit of the Corporation.

(d) If the Purported Transferee or the transferor fails to surrender the Excess Securities (as applicable) or the proceeds of a sale thereof to the Agent within thirty (30) days from the date on which the Corporation makes a demand pursuant to Section (3)(b) of this Article VI, then the Corporation shall use its best efforts to enforce the provisions hereof, including the institution of legal proceedings to compel the surrender.

4. Obligation to Provide Information.

(a) At the request of the Corporation, any Person which is a beneficial, legal or record holder of Corporation Securities, and any proposed transferor or transferee and any Person controlling, controlled by or under common control with the proposed transferor or transferee, shall provide such information as the Corporation may reasonably request as may be necessary from time to time in order to determine compliance with this Article VI or the status of the Corporation's Tax Benefits.

5. Bylaws; Legends; Compliance.

(a) The bylaws of the Corporation may make appropriate provisions to effectuate the requirements of this Article VI.

(b) Until the Restriction Release Date, all certificates representing Corporation Securities shall bear a conspicuous legend as follows:

> "THE TRANSFER OF THE SECURITIES REPRESENTED HEREBY IS SUBJECT TO OWNERSHIP RESTRICTIONS PURSUANT TO ARTICLE VI OF THE ARTICLES OF INCORPORATION OF [WASHINGTON MUTUAL, INC.] [REPRINTED IN SUBSTANTIAL PART ON THE BACK OF THIS CERTIFICATE.] THE CORPORATION WILL FURNISH A COPY OF ITS ARTICLES OF INCORPORATION TO THE HOLDER OF RECORD OF THIS CERTIFICATE WITHOUT CHARGE UPON A WRITTEN REQUEST ADDRESSED TO THE CORPORATION AT ITS PRINCIPAL PLACE OF BUSINESS."

(c) The Corporation shall have the power to make appropriate notations upon its stock transfer records and instruct any transfer agent, registrar, securities intermediary or depository with respect to the requirements of this Article VI for any uncertificated Corporation Securities or Corporation Securities held in an indirect holding system, and the Corporation shall provide notice of the restrictions on transfer and ownership to holders of uncertificated shares in accordance with applicable law.

(d) The Board shall have the power to determine all matters necessary for determining compliance with this Article VI, including, without limitation, determining (A) the identification of Substantial Holders, (B) whether a Transfer is a Prohibited Transfer, (C) the Percentage Stock Ownership of any Substantial Holder or other Person, (D) whether an instrument constitutes a Corporation Security, (E) the amount (or fair market value) due to a Purported Transferee pursuant to clause (B) of Section 3(c) of this Article VI, and (F) any other matters that the Board determines to be relevant. The good faith determination of the Board on such matters shall be conclusive and binding for the purposes of this Article VI.

ARTICLE VII. BOARD OF DIRECTORS

1. The business and affairs of the Corporation shall be managed by, or under the direction of, the Board of Directors. The Board of Directors may exercise all such authority and powers of the Corporation and do all such lawful acts and things as are not by statute or these Articles of Incorporation directed or required to be exercised or done solely by the shareholders.

2. The number of directors that shall constitute the entire Board shall be five (5).

3. Subject to the rights of the holders of any series of Preferred Stock then outstanding, newly created directorships resulting from any increase in the number of directors or any vacancies in the Board of Directors resulting from death, resignation, retirement, disqualification, removal from office or any other cause shall, unless otherwise required by the

Act or the bylaws of the Corporation, be filled only by the Board of Directors, provided, that if the directors then in office constitute less than a quorum of the board, they may fill the vacancy by the affirmative vote of a majority of the directors then in office. Directors elected to fill a newly created directorship or other vacancies shall hold office until such director's successor has been duly elected or until his earlier death, resignation or removal as provided in these Articles of Incorporation.

4. Subject to the rights of the holders of any series of Preferred Stock then outstanding and the bylaws of the Corporation, any director may be removed, with or without cause, from office at any time, at a meeting called for that purpose, and only by the affirmative vote of the holders of a majority of the voting power of the issued and outstanding shares of Common stock and the issued and outstanding shares of Preferred Stock, if any, entitled to vote generally with the Common Stock on all matters on which the holders of Common Stock are entitled to vote, voting together as a single class.

5. Elections for directors need not be by written ballot unless the bylaws of the Corporation shall otherwise provide.

6. The Board of Directors is expressly authorized to adopt, amend or repeal the bylaws of the Corporation; *provided, however,* that any amendment to Section 3.2 or Section 3.4 of the bylaws shall require the unanimous consent of the entire Board. The shareholders shall also have the power to adopt, amend or repeal the bylaws of the Corporation; *provided, however*, that, in addition to any vote of the holders of any class or series of stock of the Corporation required by the Act, by these Articles of Incorporation or by the bylaws, the affirmative vote of the holders of more than 50% of the voting power of the issued and outstanding shares of Common Stock and the issued and outstanding shares of Preferred Stock, if any, entitled to vote generally with the Common Stock on all matters on which the holders of Common Stock are entitled to vote, voting together as a single class, shall be required to adopt, amend or repeal the bylaws of the Corporation and any amendment to Section 3.2 or Section 3.4 of the bylaws shall require the unanimous consent of the entire Board.

7. The right to cumulate votes in the election of directors shall not exist with respect to shares of stock of the Corporation.

ARTICLE VIII. LIABILITY OF DIRECTORS

A director of the Corporation shall not be personally liable to the Corporation or its shareholders for monetary damages for conduct as a director, except for:

(a) Acts or omissions involving intentional misconduct by the director or a knowing violation of law by the director;

(b) Conduct violating Section 23B.08.310 of the Act (which involves distributions by the Corporation); or

(c) Any transaction from which the director will personally receive a benefit in money, property, or services to which the director is not legally entitled.

If the Act is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent not prohibited by the Act, as so amended.

ARTICLE IX. AMENDMENT

The Corporation reserves the right to amend, alter, change or repeal any provision contained in these Articles of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon shareholders herein are granted subject to this reservation. Notwithstanding any other provision of these Articles of Incorporation or the bylaws of the Corporation, and notwithstanding the fact that a lesser percentage or separate class vote may be specified by the Act, these Articles of Incorporation, or otherwise, but in addition to any affirmative vote of the holders of any particular class or series of the capital stock required by the Act, these Articles of Incorporation, or otherwise, the affirmative vote of the holders of at least 80% of the voting power of the issued and outstanding shares of Common Stock and the issued and outstanding shares of Preferred Stock, if any, entitled to vote generally with the Common Stock on all matters on which the holders of Common Stock are entitled to vote, voting together as a class, shall be required to adopt any provision inconsistent with, or to amend or repeal any provision of, Articles VIII, IX or X of these Articles of Incorporation. Any other amendment to these Articles of Incorporation that is submitted to the shareholders for approval may be approved by a majority of all the votes entitled to be cast on such proposed amendment and majority of the votes entitled to be cast within any voting group entitled to vote separately on such amendment under the Act.

ARTICLE X. BUSINESS OPPORTUNITIES

1. Except as otherwise agreed in writing, to the fullest extent permitted by law, (i) no Original Shareholder (or any of the officers, directors, employees, advisory board members, agents, shareholders, members, partners, affiliates and subsidiaries of any Original Shareholder or any of its affiliates (collectively the "***Original Affiliates***")) shall have the duty (fiduciary or otherwise) or obligation, if any, to refrain from (a) engaging in the same or similar activities or lines of business as the Corporation, (b) doing business with any client, customer or vendor of the Corporation or (c) entering into and performing one or more agreements (or modifications or supplements to pre-existing agreements) with the Corporation, including, without limitation, in the case of any of clause (a), (b) or (c), any such matters as may be corporate opportunities, and (ii) no Original Shareholder nor any Original Affiliate shall be deemed to have breached any duties (fiduciary or otherwise), if any, to the Corporation or its shareholders by reason of any Original Shareholder or any Original Affiliate engaging in any such activity or entering into such transactions, including, without limitation, any corporate opportunities.

2. If any Original Shareholder or Original Affiliate acquires knowledge of a corporate opportunity or is utilizing any corporate opportunity, the Corporation shall have no interest in such corporate opportunity and no expectancy that such corporate opportunity be offered to it, any such interest or expectancy being hereby renounced, so that (i) such Original Shareholder or Original Affiliate shall, to the fullest extent permitted by law, have the right to hold and utilize any such corporate opportunity for its own account (and for the account of its officers, directors, employees, advisory board members, agents, shareholders, members, partners,

affiliates and subsidiaries (other than the Corporation)) or to direct, sell, assign or transfer such corporate opportunity to any person other than the Corporation and (ii) such Original Shareholder or Original Affiliate shall have no obligation to communicate or offer such corporate opportunity to the Corporation and shall not, to the fullest extent permitted by law, breach any duty (fiduciary or otherwise) to the Corporation or any of its shareholders or be liable to the Corporation, or any of its shareholders for breach of any duty (fiduciary or otherwise) as a director, officer or shareholder of the Corporation by reason of the fact that any Original Shareholder or Original Affiliate acquires, utilizes, or seeks such corporate opportunity for itself, directs such corporate opportunity to another person, or otherwise does not communicate information regarding such corporate opportunity to the Corporation or any of its shareholders; *provided, however*, that the Corporation does not renounce any interest or expectancy it may have in any corporate opportunity that is offered to any director or officer of the Corporation (as defined in Securities Exchange Rule 16a-1(f) who also is an Original Affiliate if such opportunity is expressly offered to such person in his capacity as a director or officer of the Corporation (as defined in Securities Exchange Act Rule 16a-1(f)).

3. For purposes of this Article X, (i) the term "corporate opportunity" shall mean an investment, business opportunity or prospective economic or competitive advantage, including, without limitation, any matter (a) in which the Corporation could have an interest or expectancy, (b) which the Corporation is financially able to undertake, or with respect to which the Corporation would reasonably be able to obtain debt or equity financing, and (c) which is, from its nature, in the line or lines of the Corporation's business or reasonable expansion thereof, (ii) the term "Corporation" shall mean the Corporation and all corporations, partnerships, joint ventures, associations and other entities in which the Corporation beneficially owns (directly or indirectly) 50% or more of the outstanding voting stock, voting power, partnership interests or similar voting interests, (iii) the term "person" shall mean an individual, partnership, corporation, limited liability company, unincorporated organization, trust or joint venture, or a governmental agency or political subdivision thereof, or other entity of any kind, and (iv) the term "***Original Shareholder***" shall mean each of the holders of Corporation's Common Stock as of the Effective Date (as defined Article VI of these Articles of Incorporation) and each of their respective affiliates (as defined in Rule 405 of the Securities Act of 1933, as amended from time to time and any successor provision thereto); *provided, however*, that for purposes of this definition of "Original Shareholder," and the definition of "Original Affiliate" above, none of the Original Shareholders, on one hand, or the Corporation, on the other hand, shall be deemed to be an affiliate of one another.

4. Neither the alteration, amendment or repeal of this Article X nor the adoption of any provisions of these Articles of Incorporation inconsistent with this Article X shall eliminate or reduce the effect of this Article X in respect of any matter occurring, or any cause of action, suit or claim that, but for this Article X, would accrue or arise prior to such alteration, amendment, repeal or adoption.

ARTICLE XI. SHAREHOLDER APPROVAL BY CONSENT IN LIEU OF MEETING

So long as the Corporation is not a public company (as defined in the Act), corporate action required or permitted to be approved by a shareholder vote at a meeting of shareholders may be taken without a meeting or a vote if the corporate action is approved by a single shareholder consent or multiple counterpart shareholder consents executed by

shareholders holding of record, or otherwise entitled to vote, in the aggregate not less than the minimum votes that would be necessary to approve such corporate action at a meeting at which all shares entitled to vote on the corporate action were present and voted.

ARTICLE XII. SHAREHOLDER VOTE REQUIRED ON CERTAIN MATTERS

If shareholder approval of any of the following matters is required under the Act, such matter may be approved by a majority of the votes in each voting group entitled to be cast on such matter: (a) a plan of merger or share exchange of the Corporation with any other corporation; (b) the sale, lease, exchange or other disposition, whether in one transaction or a series of transactions, by the Corporation of all or substantially all of the Corporation's property other than in the usual and regular course of business; or (c) the dissolution of the Corporation. This Article is intended to reduce the voting requirements otherwise prescribed by the Act with respect to the foregoing matters.

ARTICLE XIII. VOTING BY VOTING GROUPS

Except to the extent otherwise expressly provided in the provisions of these Articles of Incorporation relating to voting or approval rights of the Preferred Stock or particular series of Preferred Stock, or unless the Board of Directors conditions its submission of the proposed shareholder action on a separate vote by one or more smaller voting groups, classes or series, the holders of each outstanding class or series of shares of the Corporation shall not be entitled to vote as a separate voting group (a) on any amendment to these Articles of Incorporation with respect to which such class or series would otherwise be entitled under Section 23B.10.040(1)(a), (e) or (f) to vote as a separate voting group, (b) on any plan of merger or share exchange with respect to which such class or series would otherwise be entitled under Section 23B.11.035 to vote as a separate voting group or (c) on any other matter required or permitted to be submitted to a vote of the Corporation's shareholders. To the extent holders of a class or series of shares would otherwise be entitled to vote as a separate voting group with respect to any of the foregoing, such rights are hereby expressly eliminated.

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Dated: _____, 2012.

[WASHINGTON MUTUAL, INC.]

By_____
Name:_____
Its_____

Exhibit D

Schedule of Executory Contracts and Unexpired Leases to Be Assumed or Assumed and Assigned

Prepetition Agreements to Be Assumed and Assigned

Counterparty	Title of Agreement	Contract Notice Address	Assignee
The Bank of New York	Revocable Trust Agreement, dated January 31, 2002 (including any fee schedule or other documentation that is part of or related to such trust agreement) Washington Mutual, Inc. Revocable Trust Fee Schedule, acceptance acknowledged on March 1, 2002	The Bank of New York Corporate Trust Administration – ATL 502 White Clay Center, Route 273 P.O Box 6973 Newark, Delaware 19711 Attn: Kris Gullo With a copy to: The Bank of New York Corporate Trust Administration 100 Ashford Center, North, Suite 520 Atlanta, Georgia 30338 Attn: Stefan Victory	WMI Liquidating Trust
Barclay's Global Investors, N.A.	Investment Management Agreement, dated December 10, 2004	Barclay's Global Investors N.A. Legal Department 45 Fremont Street San Francisco, California 94105	JPMC
BPIF Non-Taxable L.P.	Letter Agreement, dated April 1, 2005	BPIF Non-Taxable L.P. Blackstone Alternative Asset Management L.P. 345 Park Avenue New York, New York 10154	JPMC
CVM Solutions LLC	Hosted Services Agreement, dated July 31, 2007, as amended by First Amendment, dated May 1, 2009	CVM Solutions LLC 1815 S. Meyers Road 8th Floor Oakbrook Terrace, Illinois 60181 Attn: Mary Kraft	WMI Liquidating Trust
ExcellerateHRO LLP (f/k/a Towers, Perrin, Foster & Crosby, Inc.)	Pension Plan Administration Services Agreement, dated April 7, 2004, as amended by First Amendment to Pension Plan Administration Services Agreement, dated June 2005 (the "PPASA")[1]	Ms. Lisa Sanders Service Delivery Manager ACS, a Xerox Company ExcellerateHRO 101 Woodcrest Road Cherry Hill, New Jersey 08003	JPMC

[1] The Debtors do not intend to assume or assume and assign the following related Statements of Work (each an "SOW"): New Services Schedule 2, dated January 15, 2008; SOW 1 to PPASA, PCR No. 12 (BOLI), dated October 5, 2005; SOW 1 to PPASA, PCR No. 12 (Equity), dated July 22, 2005; SOW 1 to PPASA (SERP, SERAP), dated July 1, 2004; and SOWA-1 to PPASA (Retirement Program), dated June 21, 2004.

Counterparty	Title of Agreement	Contract Notice Address	Assignee
Hewlett-Packard Company (as successor-in-interest to Electronic Data Systems Corporation)	Guaranty, dated July 11, 2005	Ms. Merri Hardin Commercial Litigation Counsel Hewlett Packard Company 5400 Legacy Drive H4-1H-13 Plano, Texas 75024	JPMC
JPMorgan Chase Bank	Master Trust Agreement, dated November 5, 2004, and effective December 1, 2004	Shelia Asher Vice President JPMorgan Chase Bank 201 North Central Ave. Phoenix, Arizona 85004 With copy to: Thomas Christofferson Senior Vice President JPMorgan Chase Bank 3 Chase Metro Tech Center Brooklyn, New York 11245	JPMC
LSV Asset Management	Discretionary Investment Management Agreement, dated December 16, 2004	LSV Asset Management 1 N. Wacker Drive Suite 4000 Chicago, Illinois 60606	JPMC
MarkMonitor, Inc.	Master Services Agreement, dated September 15, 2004	MarkMonitor, Inc. Emerald Tech Center 391 N. Ancestor Place Boise, Idaho 83704	WMI Liquidating Trust
Mazama Capital Management, Inc.	Investment Management Agreement (Discretionary), dated December 6, 2004	Mazama Capital Management, Inc. Brian P. Alfrey, EVP/COO One Southwest Columbia Street Suite 1500 Portland, Oregon 97258	JPMC
Metropolitan Life Insurance Company	Amended Group Annuity Contract 398, by and between Metropolitan Life Insurance Company and Trustees of H.F. Ahmanson Retirement Plan, dated August 7, 1997	MetLife Ms. Carol A. Palmer Client Relations Executive Corporate Benefit Funding 425 Market Street, Suite 970 San Francisco, California 94105	JPMC

Counterparty	Title of Agreement	Contract Notice Address	Assignee
Metropolitan Life Insurance Company	Agreement, dated July 15, 1971, by and between Metropolitan Life Insurance Company and The Bowery Savings Bank	MetLife Ms. Carol A. Palmer Client Relations Executive Corporate Benefit Funding 425 Market Street, Suite 970 San Francisco, California 94105	JPMC
Pacific Investment Management Company LLC	Investment Management Agreement, dated December 21, 2004	Pacific Investment Management Company LLC 840 Newport Center Dr. Newport Beach, California 92660 Attn: Chief Legal Officer cc: John Miller, Senior Vice President	JPMC
Safeco Insurance Company of America	General Agreement of Indemnity, dated June 14, 1999	Safeco Insurance Company of America, Surety Dept., Safeco Plaza Seattle, Washington 98185	JPMC
Standard Insurance Company	Group Annuity Contract, dated September 1, 1971, by and between Standard Insurance Company and Wenatchee Federal Savings and Loan Association	Ms. Carolyn Hondo Account Manager Standard Retirement Services 1100 SW Sixth Avenue Portland, Oregon 97204	JPMC
Towers Watson (as successor to Towers Perrin Foster & Crosby, Inc.)	Guaranty, dated June 2005	Mr. Shane Bartling, FSA Principal Towers Watson 525 Market Street Suite 2900 San Francisco, California 94105	JPMC
Union Bank of California, N.A.	Trust Under H.F. Ahmanson & Company Capital Accumulation Plan, dated September 30, 1998 (including any fee schedule or other documentation that is part of or related to such trust agreement)[2]	Union Bank 350 California Street H-1104 San Francisco, California 94114 Attn: John Fulton	WMI Liquidating Trust

[2] The trusts related to each of these Trust Agreements were the subject of the *Motion of Debtors for an Order Pursuant to Sections 105(a) and 363 of the Bankruptcy Code Authorizing But Not Directing (I) Washington Mutual, Inc. to Exercise Its Ownership Rights Over Certain Trust Assets, (II) Distribution of Trust Assets, and (III) Termination of the Trusts*, dated May 15, 2009 [D.I. 1023] (the "HFA Trust Motion"). The Bankruptcy Court has granted the relief sought in the HFA Trust Motion, and if the Debtors liquidate the assets in these trusts prior to the Effective Date of the Plan, the Debtors may not need to assume and assign these Trust Agreements.

Counterparty	Title of Agreement	Contract Notice Address	Assignee
Union Bank	Trust Agreement, dated November 28, 1989 (established to implement the 1989 Contingent Deferred Compensation Plan) (including any fee schedule or other documentation that is part of or related to such trust agreement)[2]	Union Bank 350 California Street H-1104 San Francisco, California 94114 Attn: John Fulton	WMI Liquidating Trust
Union Bank	Trust Agreement, dated November 28, 1989 (established to implement the Elective Deferred Compensation Plan) (including any fee schedule or other documentation that is part of or related to such trust agreement)[2]	Union Bank 350 California Street H-1104 San Francisco, California 94114 Attn: John Fulton	WMI Liquidating Trust
Union Bank	Trust Agreement, dated November 28, 1989 (established to implement the Outside Director Retirement Plan) (including any fee schedule or other documentation that is part of or related to such trust agreement)[2]	Union Bank 350 California Street H-1104 San Francisco, California 94114 Attn: John Fulton	WMI Liquidating Trust
Union Bank	Trust Agreement, dated November 28, 1989 (established to implement the Supplemental Executive Retirement Plan) (including any fee schedule or other documentation that is part of or related to such trust agreement)[2]	Union Bank 350 California Street H-1104 San Francisco, California 94114 Attn: John Fulton	WMI Liquidating Trust
Union Bank	Trust Agreement, dated January 1, 1991 (established to implement the Loan Agents' Elective Deferred Compensation Plan) (including any fee schedule or other documentation that is part of or related to such trust agreement)[2]	Union Bank 350 California Street H-1104 San Francisco, California 94114 Attn: John Fulton	WMI Liquidating Trust

Counterparty	Title of Agreement	Contract Notice Address	Assignee
Union Bank of California, N.A.	Trust Under H.F. Ahmanson & Company Loan Consultants' Capital Accumulation Plan, dated September 30, 1998 (including any fee schedule or other documentation that is part of or related to such trust agreement)[2]	Union Bank 350 California Street H-1104 San Francisco, California 94114 Attn: John Fulton	WMI Liquidating Trust
Union Bank of California, N.A.	Trust Under H.F. Ahmanson & Company Outside Directors' Capital Accumulation Plan, dated September 30, 1998 (including any fee schedule or other documentation that is part of or related to such trust agreement)[2]	Union Bank 350 California Street H-1104 San Francisco, California 94114 Attn: John Fulton	WMI Liquidating Trust
Union Bank	Trust Agreement, dated November 28, 1989 (established to implement the Outside Directors' Elective Deferred Compensation Plan) (including any fee schedule or other documentation that is part of or related to such trust agreement)[2]	Union Bank 350 California Street H-1104 San Francisco, California 94114 Attn: John Fulton	WMI Liquidating Trust
Union Bank of California, N.A.	Fee Schedule, dated November 19, 2007 (originally Appendix II to the Dime Trust Agreement, this schedule has been applied to all trusts for which Union Bank is Trustee, including the H.F. Ahmanson Trusts listed above)	Union Bank 350 California Street H-1104 San Francisco, California 94114 Attn: John Fulton	JPMC[3]
Western Asset Management Company	Investment Management Agreement, dated December 21, 2004	Western Asset Management Company 385 East Colorado Boulevard Pasadena, California 91101	JPMC

[3] WMI will assume and assign this agreement to JPMC to the extent that it relates to the Dime rabbi trusts that are being transferred to JPMC pursuant to the Global Settlement Agreement and Union Bank's services with respect thereto, without prejudice to WMI's right to later remove this agreement from this Schedule as well as without prejudice to JPMC's right to later direct WMI to remove this agreement from this Schedule.

Counterparty	Title of Agreement	Contract Notice Address	Assignee
--	Any and all contracts, as and to the extent necessary or required to transfer to JPMC or its designee any and all right, title and interest the WMI Entities may have or may ever have had in the Trust Preferred Securities free and clear of all claims, liens, interests and encumbrances, as contemplated in Section 2.3 of the Global Settlement Agreement, as and to the extent such contracts are or may be executory contracts, including, without limitation, (a) offering circulars, (b) trust agreements, (c) exchange agreements, (d) side letters, and/or (e) any additional ancillary and subsidiary documents; provided however, that the forgoing is without prejudice to the rights of the Debtors and JPMC with respect to the Trust Preferred Securities and all related contracts in the event the Global Settlement Agreement is not approved and/or terminates.	--	JPMC

Postpetition Contracts and Leases to Be Assumed and Assigned[4]

Counterparty	Title of Agreement	Contract Notice Address	Assignee
Adams, Marla	Independent Contractor Agreement, dated August 2009	[REDACTED][5]	WMI Liquidating Trust
American Legal Copy, LLC d/b/a TERIS	Agreement for Native File Processing, dated June 15, 2010	TERIS 1001 Fourth Avenue Suite 2110 Seattle, Washington 98154 Attn: Ron Couden	WMI Liquidating Trust
AT&T Mobility National Accounts LLC	AT&T Mobile Business Agreement Version 7-B	Lee Seto Business Account Manager AT&T Mobility P.O. Box 6463 Carol Stream, Illinois 60197-6463	WMI Liquidating Trust
Bagley Holdings LLC	Letter Agreement, dated April 20, 2009	Bagley Holdings LLC Attn: Peter Freilinger, Sole Member 9528 144th Street Edmonton, Alberta T5N 2T1 Canada	WMI Liquidating Trust
Branch Richards and Co	Payroll and Accounting Related Services Agreement, dated January 6, 2009	Branch Richards & Co 155 NE 100th Suite 410 Seattle, Washington 98125	WMI Liquidating Trust
Brouwer, Curt	Offer Letter, dated December 10, 2008	[REDACTED]	WMI Liquidating Trust
Comcast	Business Class Service Order Agreement, dated February 2010	Comcast P.O. Box 34227 Seattle, Washington 98124-1227	WMI Liquidating Trust

[4] The listing of a postpetition contract or lease on this schedule does not constitute an admission by the Debtors that such document is an executory contract or an unexpired lease subject to section 365 of the Bankruptcy Code, or that the Debtors have any liability thereunder. In addition, the Debtors reserve all rights to terminate any of these contracts or leases according to their terms.

[5] Individuals' addresses have been redacted from this schedule, to protect such individuals' privacy interests.

Counterparty	Title of Agreement	Contract Notice Address	Assignee
Computershare (as *successor-in-interest* to Mellon Investor Services LLC)	Service Agreement for Transfer Agent Services, dated January 1, 2009	Computershare 520 Pike Street Suite 1220 Seattle, Washington 98101 Attn: Dennis Treibel, Relationship Manager With a copy to: Computershare Newport Office Center VII 480 Washington Blvd. Jersey City, New Jersey 07310 Attn: Legal Department	WMI Liquidating Trust
Cronk, Thomas	Offer Letter, dated January 23, 2009	[REDACTED]	WMI Liquidating Trust
Datasite Business Archives, Inc.	Records and Media Management and Services Agreement, dated June 22, 2009, together with Statement of Work # 1, dated June 22, 2009	Datasite Business Archives, Inc. 9401 Aurora Ave North Seattle, Washington 98103	WMI Liquidating Trust
Grayson, Helen	Offer Letter, dated November 25, 2008	[REDACTED]	WMI Liquidating Trust
Hirata, Yana	Offer Letter, dated July 23, 2009	[REDACTED]	WMI Liquidating Trust
Integra Telecom	Equipment Lease, dated December 18, 2009	Integra Telecom of Washington, Inc. 13035 Gateway Drive Suite #119 Seattle, Washington 98168	WMI Liquidating Trust
LexisNexis	Subscription Agreement and Order Form Commercial Per Search Pricing Effective December 1, 2008	Steven G. Hunt National Account Manager - Financial Markets LexisNexis 9443 Springboro Pike Miamisbury, Ohio 45342	WMI Liquidating Trust
Logan, Doreen	Offer Letter, dated October 16, 2008; first amendment to offer letter, dated December 7, 2009	[REDACTED]	WMI Liquidating Trust

Counterparty	Title of Agreement	Contract Notice Address	Assignee
Merrill Communications LLC	Litigation Services Agreement, dated January 26, 2009, together with all Statements of Work	Merrill Communications Attn: Jason Velasco 25 West 45th Street New York, New York 10036	WMI Liquidating Trust
Pacific Office Automation/AGI Leasing	Total Image Management, dated February 23, 2010	The Archive Group, Inc. AGI Leasing Corporation 2615 Evergreen Point Road Medina, Washington 98039-1528	WMI Liquidating Trust
Pitney Bowes Inc.	Equipment & Postage Meter Rental Agreement and Sales Agreement and Service Level Agreement, each dated February 2, 2010	Pitney Bowes Inc. 2225 American Drive Neenah, Wisconsin 54956	WMI Liquidating Trust
Puget Sound Beverage	Rental Agreement and Equipment Loan Agreement, each dated April 29, 2010	Puget Sound Beverage Service 2136 Pacific Ave Tacoma, Washington 98402	WMI Liquidating Trust
R.R. Donnelley & Sons Company (as *successor-in-interest* to Bowne & Co., Inc.)	Master Services Agreement, dated June 16, 2010	R.R. Donnelley & Sons Company 55 Water Street New York, New York 10041 Attn: Senior Vice President, Corporate Secretary & General Counsel	WMI Liquidating Trust
RR Donnelley Financial, Inc. (as *successor-in-interest* to Bowne of Los Angeles, Inc.)	Office Sublease, dated November 30, 2011	RR Donnelley Financial, Inc. c/o R.R. Donnelley & Sons Company 111 South Wacker Drive, 38th Floor Chicago, Illinois 60606 Attn: Director, Real Estate With a copy to: Jones Day 77 W. Wacker Dr., Suite 3500 Chicago, Illinois 60606 Attn: Brian L. Sedlak	WMI Liquidating Trust
Smith, Charles E.	Offer Letter, dated November 12, 2008; first amendment to offer letter, dated December 7, 2009	[REDACTED]	WMI Liquidating Trust
Suzuki, Dennis	Offer Letter, dated January 15, 2009	[REDACTED]	WMI Liquidating Trust

Counterparty	Title of Agreement	Contract Notice Address	Assignee
The Hartford	Property and Liability Insurance	The Hartford 2600 Wiseman Blvd San Antonio, Texas 78251	WMI Liquidating Trust
Thomson Reuters (Tax & Accounting), Inc. d/b/a RIA and/or PPC	Order Form and License Agreement, dated May 22, 2009	David Salo Thomson Reuters (Tax & Accounting) 117 East Stevens Avenue Valhalla, New York 10595-1264	WMI Liquidating Trust
Towers Watson	Statement of Work, concerning WaMu Plan and Lakeview Plan, dated August 30, 2010	Eva P. McComas Towers Watson 525 Market St., Suite 2900 San Francisco, California 94105	JPMC
Wells Capital Management Incorporated	Investment Management Agreement, dated July 2, 2009	Wells Capital Management Incorporated Attn: Client Administration MAC: A0103-103 525 Market Street 10th Floor San Francisco, California 94105	WMI Liquidating Trust
Wells Fargo Bank, National Association; JPMorgan Chase Bank, N.A.; Federal Deposit Insurance Corporation, in its capacity as receiver for Washington Mutual Bank	Escrow Agreement, dated September 23, 2010	Wells Fargo Corporate Trust Services 625 Marquette Avenue, 11th Fl. N9311-110 Minneapolis, Minnesota 55479 Attn: David Bergstrom, Vice President With a copy to: Thompson Hine LLP 335 Madison Avenue, 12th Fl. New York, New York 10017 Attn: Mildred Quinones-Holmes, Esq. JPMorgan Chase Bank, N.A. 270 Park Avenue, 12th Fl. New York, New York 10017 Attn: Donald McCree -and- JPMorgan Chase Bank, N.A. 270 Park Avenue, 38th Fl. New York, New York 10017 Attn: Travis Epes, Esq. -and-	WMI Liquidating Trust

Counterparty	Title of Agreement	Contract Notice Address	Assignee
		JPMorgan Chase Bank, N.A. One Chase Manhattan Plaza, 26th Fl. New York, New York 10081 Attn: Lawrence N. Chanen, Esq. With a copy to: Sullivan & Cromwell LLP 1888 Century Park East Los Angeles, California 90067 Attn: Robert A. Sacks, Esq. Attn: Hydee R. Feldstein, Esq. -and- Sullivan & Cromwell LLP 125 Broad Street New York, New York 10004 Attn: Stacey R. Friedman, Esq. Federal Deposit Insurance Corporation 3501 Fairfax Drive Arlington, Virginia 22226 Attn: B. Amon James, Esq. Attn: Kathryn Norcross, Esq. With copy to: DLA Piper LLP 1251 Avenue of the Americas New York, New York 10020 Attn: Thomas R. Califano, Esq. Attn: John J. Clarke, Jr., Esq.	
Z7 Networks	Dedicated Hosting/Leased Hardware Agreement, dated January 30, 2009, as amended by Addendum to Agreement, dated March 9, 2009	Z7 Networks 3931 Bridgeway N Seattle, Washington 98103 Attn: JP Zarate	WMI Liquidating Trust

Non-Release of Agreements in Schedule 3.1(b) to the Global Settlement Agreement[6]

Counterparty	Title of Agreement
Ahmanson Obligation Company and JPMorgan Chase Bank, N.A.	Agreement, dated October ___, 2009
Ahmanson Obligation Company and JPMorgan Chase Bank, N.A.	Agreement, dated October 21, 2010
Ahmanson Obligation Company in favor of JPMorgan Chase Bank, N.A.	Limited Power of Attorney, regarding servicing and administration of certain mortgage loans, dated September 29, 2009
Ahmanson Obligation Company in favor of JPMorgan Chase Bank, N.A.	Limited Power of Attorney, regarding servicing and administration of certain mortgage loans, dated August 4, 2010
Dell Marketing L.P. and JPMorgan Chase Bank, N.A.	Stipulation and Agreement , dated October 9, 2009, resolving Motion of Debtors Pursuant to Rule 9024 of the Federal Rules of Bankruptcy Procedure for Reconsideration of the Order Approving That Certain Stipulation by an between Debtors and Dell Marketing, L.P., dated December 17, 2008
Fidelity Management Trust Company, consented to by JPMorgan Bank Chase Bank, N.A.	Assignment of Trust Agreement, dated as of August 10, 2009
JPMorgan Chase Bank, N.A.	Agreement, dated November 24, 2008, for indemnification of JPMorgan Chase Bank, N.A. for certain work relating to Internal Revenue Code Section 409A
JPMorgan Chase Bank, N.A. and its affiliates and subsidiaries	Agreement Regarding WaMu Savings Plan, dated as of June 16, 2009
JPMorgan Chase Bank, N.A. and Batac Corporation	Assignment And Assumption Agreement, dated as of February 10, 2009
JPMorgan Chase Bank, N.A. and Federal Deposit Corporation	Agreement Regarding Reconciliation of State Tax Refunds, dated May 29, 2009
JPMorgan Chase Bank, N.A. and NorLease Inc.	Letter Agreement, dated April 9, 2010

[6] Pursuant to Section 3.1 of the Global Settlement Agreement, nothing in the Global Settlement Agreement is intended to release, nor shall it have the effect of releasing, among other things, the WMI Releasees (as defined therein) from the performance of their obligations in accordance with the written agreements set forth on Schedule 3.1(b) to the Global Settlement Agreement. Accordingly, out of an abundance of caution, these agreements are listed here.

Counterparty	Title of Agreement
JPMorgan Chase Bank, N.A. and PGA Plaza Associates, Ltd.	Assignment And Assumption Agreement, dated as of February 10, 2009
Lumbermens Mutual Casualty Company, American Motorists Insurance Company, American Manufacturing Mutual Insurance Company, American Protection Insurance Company, and JPMorgan Chase Bank, N.A.	Settlement Agreement, dated April 20, 2010
Old Republic Insurance Company and its subsidiaries and affiliated companies and JPMorgan Chase Bank, N.A.	Settlement Agreement, dated April 15, 2010
Zurich American Insurance Company and its subsidiaries and affiliated companies and JPMorgan Chase Bank, N.A.	Settlement Agreement, dated April 15, 2010

Treatment of "VISA Strategic Agreement" Pursuant to Section 2.15(b) of the Global Settlement Agreement[7]

Counterparty	Title of Agreement	Contract Notice Address	Assignee
Visa U.S.A. Inc.	Amended and Restated Strategic Agreement dated as of September 26, 2005 between Providian Financial Corporation and its subsidiaries and Visa U.S.A. Inc.; First Amendment to Amended and Restated Strategic Agreement dated March 31, 2008 between Visa U.S.A. Inc. and Washington Mutual, Inc. (successor-in-interest to Providian Financial Corporation) and its affiliates; Second Amendment to Amended and Restated Strategic Agreement dated March 31, 2008 Visa U.S.A. Inc. and Washington Mutual, Inc. (successor-in-interest to Providian Financial Corporation) and its affiliates; Third Amendment dated June 13, 2008 between Visa U.S.A. Inc. and Washington Mutual, Inc.; Fourth Amendment to Amended and Restated Strategic Agreement dated July 7, 2008 Visa U.S.A. Inc. and Washington Mutual, Inc. (successor-in-interest to Providian Financial Corporation) and its affiliates	Visa U.S.A. Inc. 900 Metro Center Boulevard, M1-10A Foster City, California 94404 Attn: Tracy Cless	

[7] The VISA Strategic Agreement was rejected by order of the Bankruptcy Court dated May 13, 2009 [D.I. 1019], and is not being assumed and assigned to JPMC pursuant to the Global Settlement Agreement or under the Bankruptcy Code. Pursuant to Section 2.15(b) of the Global Settlement Agreement, on the Effective Date, and pursuant to the 363 Sale and Settlement, the WMI Entities shall be deemed to have sold, transferred and assigned to JPMC or its designee, free and clear of all liens, Claims and encumbrances, all of the WMI Entities' right, title and interest in, and all claims, and all actions arising under or related to the VISA Strategic Agreement. Pursuant to Section 2.15(b) of the Global Settlement Agreement, JPMC is, *inter alia*, assuming the Assumed Liabilities of the WMI Entities pursuant to the VISA Strategic Agreement (including available defenses) with respect to the Claims asserted by VISA U.S.A. Inc. in its proof of claim, filed against the Debtors and the Debtors' chapter 11 cases, Claim No. 2483, pertaining to the Visa Strategic Agreement.

Exhibit E

Initial Directors of the Reorganized Debtors

Directors of the Reorganized Debtors

1. Michael Willingham
2. Mark Holliday
3. Diane Glossman
4. Timothy Graham
5. [to be named]

Upon the Effective Date, the individuals listed above shall be appointed and shall serve as directors of the Reorganized Debtors. Attached hereto are copies of the resumes, biographies, or curriculum vitae of such individuals. As provided in the Plan, the names and individuals listed above may be amended at any time during the period up to and including the Effective Date, in which case the Debtors shall file a notice thereof with the Bankruptcy Court and, for purposes of section 1129 of the Bankruptcy Code, any newly-added person will be deemed to have been selected and disclosed prior to the Confirmation Hearing.

Michael Willingham

Professional Background:

Consultant, (Jan 2000 – present)

Providing consulting services in the areas of securities transactions and trading, finance agreements, energy trading, and derivatives trading.

Significant matters include:
Subject matter expert for large Chapter 11 case involving complex securities contracts, finance agreements, securities trading methodology, fraud, market manipulation, fraudulent conveyance and preference actions. Case manager for debtor regarding approximately one billion in claims.

Plaintiff consulting expert for multi-billion dollar securities class action litigation involving securities, finance agreements, financial statements, and derivative trading of an energy trading company.

Defendant consulting expert for securities class action litigation involving market manipulation and derivative trading fraud in the stock of a large retail manufacturer.

Defendant consulting expert for energy derivatives trading litigation involving hedging strategies related to oil and gas production.

Subject matter expert for a Chapter 7 liquidation involving petroleum derivatives trading related to a refinery operation.

Subject matter expert regarding energy hedging and trading strategies for a large petroleum producer.

Plaintiff consulting expert regarding valuation of petroleum royalty payments to a state government.

Senior Risk Manager, Administration Manager, ITOCHU International, Inc. (June 2001- Dec 2002)

Traded physical, futures, and derivative products for the following commodities: crude, unleaded, fuel oil, heating oil, propane, natural gas, jet fuel. Provided hedging services for customers. Negotiated substantial supply agreements with customers regarding supplies of unleaded gasoline throughout the north east. Developed and implemented inter-company hedging strategies for gasoline and jet fuel wholesale supply operations. Responsible for reporting to FERC, DOE, and compliance with GAAP. Established risk management policy, trading policy, and various accounting/internal control procedures implemented by energy division. Managed accounting department for energy division with over five billion in revenue.

Risk Manager, Risk Controller, Energy Derivatives, Coral Energy (July 1996 – Oct 1999)

Traded futures and derivative products for the following commodities: natural gas, unleaded, crude, heating oil, fuel oil, electricity. Created operations manuals for complex system processes and controls for Endur trading system. Constructed financial models to articulate physical and financial derivatives and options for energy trading purposes including natural gas and power options.

Saunders & Associates (Jan 1993 – June 1996)

Supervised and lead teams of financial consultants and auditors on attest engagements ranging from fraud investigations and forensic accounting to audits of financial statements. Performed hundreds of engagements including financial statement audits, internal control assessments, governmental compliance, and special investigations.

Other Experience

Board Manager – Mirant Corporation Asset Recovery LLC

Responsible for generating recovery regarding approximately 2 billion of claims remaining post bankruptcy. Directed counsel, developed strategy, researched documentation on cases involving accounting malpractice, securities fraud, fraudulent conveyance, avoidable transfer, contract breach.

Member – Official Committee of Equity Security Holders – Calpine Chapter 11

Member – Official Committee of Equity Security Holders – Mirant Chapter 11

Member – Board of Directors, Chief Financial Officer of Innovista.org

Education and Certification

BS Accounting – East Central University

Certified Public Accountant

Curriculum Vitae

Mark E. Holliday

Current Directorship Profiles

MCAR (Mirant Litigation Trust) January 2006 to Present
Manager
MCAR was formed and funded pursuant to a Chapter 11 reorganization plan to pursue approximately $2 billion in fraudulent transfer claims that resulted from the spin-off and subsequent bankruptcy filing of Mirant following its separation from Southern Energy. Recoveries to date total $208.5 million, with two additional actions ongoing.

Fairpoint Litigation Trust January 2011 to Present
Trustee
Fairpoint acquired Verizon's Northeast landline business and filed for bankruptcy protection shortly thereafter. The Trust was formed as part of the Fairpoint reorganization plan to pursue approximately $2 billion in claims against Verizon.

YRC Worldwide, Inc. (Yellow Freight, Roadway Express) March 2010 to Present
Director, Audit Committee Chair, Compensation committee
YRC Worldwide offers LTL and truckload freight transportation and logistics worldwide, with revenue in excess of $5 billion.

FiberTower Corporation November 2008 to Present
Director, Audit Committee Chair
FiberTower is a backhaul provider focused on the wireless carrier market. Its spectrum footprint in 24 GHz and 39 GHz bands, microwave and fiber networks in 13 major markets, customer commitments from six of the cellular carriers, and partnerships with the tower operators in the U.S provide the two-way data transfer required by devices such as iPhone and Blackberry.

Primus Telecommunications Group May 2011 to Present
Director, Audit Committee Chair, Compensation and Governance committee
Primus offers international and domestic voice, VOIP, internet, wireless, data and hosting services to business and residential customers in North America, Australia, and Europe.

Former Directorships

Movie Gallery, Inc. May 2008 to November 2010
Chairman of the Board, Director, Audit Committee Chair
Movie Gallery was the second largest video rental company in the United States. It operated retail stores that rented and sold DVDs and video games under the Movie Gallery, Hollywood Video and Game Crazy brands. Appointed Chairman with the Chapter 11 filing in February, 2010, with a liquidating plan expected to be effective in November, 2010.

Clear Choice Health Plans January 2009 to June 2010
Director, Special Committee Member
Clear Choice offers health plans to employers, providers and consumers. The company provides health insurance, including Medicare Advantage plans, commercial plans, individual plans and administrative services to individuals and businesses throughout Oregon, Washington and Montana. The company also offers life, disability, dental, vision and voluntary benefits programs. The Company was sold at a significant premium to its historical public valuation.

Assisted Living Concepts, Inc. January 2002 to January 2005
Audit Committee Chair & Special Transaction Committee Chair
Assisted Living Concepts operated approximately 168 owned and leased assisted living residences, totaling 6,000 beds, and provided personal care and support services. The company was acquired by Extendicare Health Services, Inc. in January 2005. Chaired Special Transaction Committee in connection with this sale and obtained 25.3% premium over market price as of the announcement of the merger and 111.4% premium over market price as of the date of company's announcement of exploration of strategic alternatives.

Reptron Electronics, Inc. February 2004 to July 2005
Chairman of the Board and Audit Committee Member
Reptron Electronics, Inc., an electronics manufacturing company, provided services in custom logistics, supply chain management, engineering, display integration and electronic manufacturing. Resigned from the Board in July 2005 as part of a planned transition of control to new equity ownership.

TELETRAC, Inc. April 1999 to May 2001
Audit Committee Member
Teletrac provided wireless location tracking for vehicles for applications such as tracking emergency response vehicles to monitor and optimize emergency response time. Reorganized the business as part of a pre-negotiated bankruptcy plan and then served on the board until a subsequent sale.

Professional Experience

Camden Asset Management, LP 2003 to 2009
Partner
Camden Asset Management is a $3.0 billion hedge fund, focusing primarily on convertible and capital structure arbitrage. Formed and served on official and ad hoc creditor committees such as Mirant and WHX/Wheeling Pittsburgh steel to restructure debt and equity securities both in and out of bankruptcy proceedings.

Deephaven Capital Management, LLC 2001 to 2002
Portfolio Manager
Managed distressed portfolio focusing on capital structure arbitrage, degradation of credit quality, and event driven special situations for Deephaven Capital, a $3 billion market-neutral hedge fund. Positions included Lucent, Teligent, Metricom, Priceline, and Edison International. Formed and served on creditor committees on behalf of convertible portfolio.

Heartland Capital Corp. 1995 to 2000
Principal
Researched and invested in debt instruments and equity of distressed and bankrupt companies. Positions included TWA, Zenith, Anacomp, Morrison Knudsen, Boston Chicken, United Artists and Medpartners. Formed broker-dealer to become a member of the Chicago Stock Exchange in order to manage and leverage capital.

Option Opportunities 1992 to 1995
Partner
Developed off-floor trading operation for CBOE member focusing on bankruptcies, preferred versus common strategies, rights offerings arbitrage and CVRs. Designed and implemented a rights offering for the stockholders of America West Airlines, yielding additional recovery for the class in the reorganization. Negotiated and purchased a 5% stake in America West Airlines from the Resolution Trust Corporation (RTC).

Continental Partners Group, Inc. 1990 to 1992
Financial Analyst, Merger & Acquisitions
Continental Partners Group was a subsidiary of Continental Bank North America (now Bank of America). Provided analysis for a broad range of restructuring and bankruptcy negotiations, including Schwinn Bicycle Company, Specialty Equipment Company and UDC Homes. Drafted exclusive sale, private placement and financing memoranda.

Education

Northwestern University, Evanston, IL
Bachelor of Arts in Economics, June 1990

Diane B. Glossman, CFA

Ms. Glossman spent 25 years as an investment analyst, retiring in 2003 as a managing director and head of United States bank and brokerage research at UBS Equity Research. She specialized in money center, trust banks, and broker/dealers, but over the course of her career covered all aspects of banking and financial services industries. Her research was distinguished by its in depth coverage of banking technology – particularly the revenue generating businesses of cash management, trade finance and securities services -- and the international operations of US-based organizations. A number of the analysts she trained have gone on to distinguished careers both in the US and overseas.

Ms. Glossman was a six-time member of Institutional Investor's All-America Research Team and a member of the top ranked Global Bank Research team, along with winning the 2003 Wall Street Journal survey in the broker/dealer category, and was ranked for several years in the Reuters large cap and mid cap bank surveys by both fund managers and companies. Further, she was a frequent commentator on industry and company events for such entities as The Nightly Business Report, The Wall Street Journal, Financial Times, New York Times, The Economist, CNN, CNBC, and various trade publications.

Prior to joining UBS, Ms. Glossman was co-head of Global Bank Research and Head of Internet Financial Services Research at Lehman Brothers. The latter capitalized on her knowledge of technology-based banking services. Before that Ms. Glossman worked at Salomon Brothers for nine years, where she was co-head of U.S. Bank Stock Research. Earlier in Ms. Glossman's career, she held positions at Mitchell Hutchins Institutional Investors, Manufacturers Hanover Investment Corporation, First Pennsylvania Bank and the General Accident Group, where her coverage included a variety of industries beyond financial services.

From October 2003 through September 2005, Ms. Glossman was an advisor to Citigroup's Global Consumer Group on strategy and a member of the GCG Planning Group. During the 10-month period ending September 2005, she was the acting head of the International Retail Bank, a business covering 39 countries which generated $6 billion in revenues and $1.6 billion in net income in 2004.

Most recently, she has consulted with a number of banks on projects relating to strategy, business execution, and investor communications.

She is currently a board member of the Ambac Assurance Company (head of the compensation committee and a member of the special committee and the audit and risk assessment committee), as well as the Board of Directors of the Bucks County SPCA (Treasurer and member of the finance committee; past president). Previously, she sat on the Trustees Board of the SSgA Funds (a member of the audit, governance, valuation, and qualified legal and compliance committees); the Board and finance committee of the Internet payments company E-Charge Corporation; the flavorings and botanicals company, A.M. Todd Group Board of Directors (chairman of the compensation committee and acting chairman of the audit committee), and was Treasurer and a Director of the Bank and Financial Analysts Association.

In 1977, Ms. Glossman earned a B.S. in economics from the Wharton School at the University of Pennsylvania with a double major in finance and health care administration, having also attended the University of California at Davis. Ms. Glossman was awarded her Chartered Financial Analyst designation (CFA) in 1981.

TIMOTHY R. GRAHAM

Executive with extensive transactional, management and compliance experience in restructuring, corporate and venture capital. An engaged leader, I have acted in senior business capacities and\or as principal legal officer in various environments including growth and distress with particular emphasis on crisis management, compliance and resolution of troubled regulated financial\insurance entities.

PROFESSIONAL EXPERIENCE

BROOKWALL, LLC – Greenwich, CT
Restructuring Advisor **June 2010 – 2011**
Independent advisor focused primarily on maximizing residual value from investments in distressed financial entities, including:

- Advising troubled public company on successful, deeply-discounted repurchase of senior debt to forestall bankruptcy.
- Retained by $3 Billion multinational distressed asset fund to identify, advise and negotiate acquisition for long term investment of undervalued illiquid investments in the US and abroad arising from the restructuring of the monoline bond guarantors.
- Advised significant creditor and related parties in pursuing liquidation alternatives through US bankruptcy and international insolvency proceedings with respect to $2 Billion US & Bermuda fund whose primary investments were illiquid alternative assets (single property mortgages, secured notes, life insurance, oil & gas properties, etc.).
- Retained by NYC based communications advisory firm to advise clients including potential entrants into financial guaranty markets with respect to RMBS issues, state insurance regulation and potential impact of resolution of private and public mortgage guarantee entities.
- Engaged as principal in establishing investment fund focused on investment in illiquid, secured alternative real estate instruments.

TRIAD GUARANTY INSURANCE CORPORATION – Winston Salem, NC
Restructuring Advisor **August 2008 – June 2010**
Consultant retained with the consent of the Illinois Insurance Department to avoid regulatory takeover and assist in formulating and implementing strategy for commercial runoff of publicly held mortgage insurance company insuring in excess of $60 Billion of mortgage liabilities licensed in all US jurisdictions and Canada in order to maximize residual shareholder value, including:

- Identifying strategies to accelerate favorable resolution of insurance obligations to financial institutions including buybacks and commutations.
- Preparing and implementing strategies to resolve Holding Company funded debt at a substantial discount to avoid the cost and regulatory complications of formal insolvency proceedings.

- Assistance with preparation of runoff plan accepted by the Illinois Insurance Department and issuance of unique Operating Order to govern commercial runoff of entity.
- Initiate process to achieve full recognition of reinsurance benefits as well as commutation of insurance liabilities.
- Implement strategies with regulator and government supported policyholders (GSEs) to defer payment of accepted insurance liabilities in order to sustain statutory and economic solvency.
- Institution of settlement discussions to resolve on a wholesale basis disputes involving bulk policy liabilities to securitization vehicles sponsored by distressed financial institutions.
- Analyze and involvement in negotiations with respect to sale of operating assets and potential exit opportunities to enhance viability of long term runoff and maximize potential residual value for public shareholders.

LASALLE RE LIMITED – Bermuda
President and Chief Legal\Restructuring Officer **July 2005 – June 2008**
Retained at request of secured creditor group by Bermuda catastrophe/casualty reinsurer with initial liabilities/assets exceeding $350 million to institute runoff, achieve solvency and effectuate release of enhanced residual equity value through creation of approved run-off plan providing for orderly disposition of non insurance assets and expedited resolution of reinsurance obligations utilizing accelerated resolution alternatives such as policy buyouts, novations, commutations and corporate restructuring transactions to enhance value, including:

- Obtained approval of Bermuda Monetary Authority to initiate solvent runoff plan and continue operations outside of traditional supervision and liquidation procedures despite failure to comply with statutory minimum capital, liquidity and solvency requirements.
- Negotiated accelerated resolution of retrocession obligations to the Company and numerous commutations between the Company and its cedants located in the U.S. and abroad.
- Completed renewal right transaction to obtain value with respect to pre-runoff cedant base;
- Delisted parent company securities from NYSE and responded to SEC/NYSE inquiries without triggering further action.
- Supervised ongoing compliance with regulatory requirements imposed by various regulatory bodies in Bermuda and the United Kingdom.
- Resolved Company's obligations as a corporate capital provider to Lloyd's syndicates and negotiated accelerated release of $6 million of funds held by Lloyds.
- Arranged for shift of remaining Bermuda and U.S. staff and responsibilities to designated third party service providers under multi-year service agreements.
- Structured dedicated foreign entities to effect disposition of specific non-regulated assets and investments.
- Effected sale of non-core Company assets to distressed company purchasers including structure of transaction, purchase of reinsurance protection, response to due diligence inquiries and negotiating price issues.
- Negotiated with liquidators, stakeholders and principal cedants to implement first solvent scheme of arrangement by Class 4 Bermuda Insurer, obtained creditor approval and Court sanction of solvent scheme.
- Resolved all insurance liabilities, obtained release without draw of $162Million of Bank letters of credit, surrender of insurance license, release of $40 million to equity interests and distributions of $10 per share to public shareholders.

- Responded to investigations of former Company management conducted by regulators, the parent Company liquidator under auspices of the Bermuda Supreme Court and various creditor groups.

TRENWICK GROUP LTD – Stamford, CT\London, UK
General Counsel, Chief Restructuring Officer and Director **January 2003 – August 2005**

Principal Legal Officer and Restructuring Executive retained to deal with legal/business aspects of an affiliated group of distressed NYSE/OTC property and casualty insurance and reinsurance holding companies with initial assets in excess of $4.5 billion and separate licensed insurance subsidiaries domiciled in New York, Connecticut, Bermuda, California, Barbados, UK and Lloyd's, including:

- Implemented downsizing of operations and multi-year employee reduction program (approximately 80% of staff) while transforming remaining operations into an aggressive run-off entity focused on reduction of claims, commutation of liabilities and recovery of corporate assets.
- Disposition of four insurance entities domiciled in the United Kingdom, Bermuda and in the United States.
- Developed and instituted strategies for accelerated settlements of more than $300 million of primary insurance claims and commutation of more than $1.8 billion of reinsurance liabilities.
- Obtained international regulatory approval for dispositions and implemented commercial run-off plans for three separate insurance-reinsurance entities domiciled in New York and Connecticut with aggregate liabilities exceeding $2.3 billion including authority to make unprecedented voluntary mass commutation offers in lieu of ceding control to regulator by (i) New York domiciled insurer/reinsurer to cedants utilizing NYS Regulation 141 and (ii) a Connecticut domiciled reinsurer;
- Supervised compliance with disclosure and operating requirements of SEC, State insurance departments, Financial Service Authority (UK), Lloyds and other international regulators.
- Restructuring of various classes of interrelated debt and quasi-debt instruments including secured bank debt, publicly traded debt securities and preferred stock at various layers in the corporate structure.
- Delisted securities of parent company and subsidiary from the New York Stock Exchange.
- Coordinated response to insurance regulatory matters in numerous domestic and foreign jurisdictions and prosecution of multi-jurisdictional insolvency proceedings while minimizing adverse regulatory action at the insurance companies.
- Negotiated terms of holding company bankruptcy and insolvency filings in the United States, the United Kingdom and Bermuda including related disposition of European assets and specific US insurance entities.
- Successfully resolved over 27 reinsurance arbitration proceedings and eight court actions involving claims exceeding $300 million in the aggregate.
- Supervised response to creditor's committee and multi-jurisdiction regulatory investigations of former executives and directors regarding pre-bankruptcy transactions.

WINSTAR COMMUNICATIONS, INC. – New York, NY
General Counsel, Corporate Secretary and Director **1994 – 2002**

Executive in charge of all legal, regulatory and government affairs for publicly traded competitive telecommunications, internet and media company with over 4,500 employees, 30,000 business customers and annual revenues exceeding $850 Million worldwide as of December 31, 2000. As a member of Executive Management Committee, I had responsibility for presentation and approval of all SEC, corporate finance, M&A, joint venture and strategic partner activity. I acted as a Director of all principal international subsidiaries and joint ventures in 14 countries. I coordinated all Parent Board functions and advised Board and CEO on legal, corporate governance, public policy and related matters. As General Counsel, I was responsible for developing processes and dealing with legal and strategic matters involving the Company and it subsidiaries, including each of the following:

Financings and Acquisitions:

- Completed over $8.4 Billion of capital raising transactions including public offerings, private placements, Rule 144A transactions and international offerings, exchange offers and $3 Billion in bank and other institutional secured debt.
- Negotiated strategic relationships valued in excess of $4.7 Billion with, among others, Microsoft, Cisco, Siemens, KDD (Japan), Hong Kong Land, Lucent Technologies and CBS.
- Acquired over 20 companies (including acquisitions of assets of two bankrupt entities in excess of $100 Million each), and made 17 strategic venture capital investments totaling more than $200 Million.

Regulatory:

- Accumulated and managed the largest amount of commercial radio spectrum held by non-governmental entity in the United States.
- Obtained operating authority and initiated rollout of commercial service as regulated telecommunications carrier in 49 states and 12 countries.

Litigation:

- Successfully resolved two shareholder class actions, one employee class action, three consumer class actions, and related regulatory actions in 23 states by FCC, state public utility commissions and state attorneys general.
- Responded to two SEC informal investigations, one NASD investigation and one Chicago Board of Trade inquiry resulting in no formal charges being initiated.

Government Affairs and Contracting:

- Directed international effort to limit potential for satellite interference with broadband fixed wireless operations including coordination of numerous counsel and advisors in various foreign countries, negotiating and presenting US position at 2000 World Radio Conference and regional conferences, participating in multinational commercial and governmental negotiations with representatives of major countries.
- Established government contracting subsidiary and obtained first contracts awarded to non-RBOC companies to provide local telecommunication services to federal government. Coordinated post 9/11 emergency restoration activities with Federal Emergency Management Agency in Manhattan and Virginia (received public service award from GSA for post 9/11 support provided to Federal Government).

Consolidation, Reorganization and Sale (2001-02):

- Formulated and implemented regulatory/bankruptcy transition plan to effectuate sale of core operations as ongoing business, including obtaining DIP financing of $177 Million, and extensive negotiations with various classes of creditors as well as federal, state and foreign regulators.
- Restructuring of complex commercial and strategic relationships while maintaining continuing operations
- Closing operations, staff reduction and liquidating assets domestically and internationally.
- Initiated litigation leading to recoveries by bankrupt estate in excess of $350 million against major telecommunications suppliers and carriers
- Utilized bankruptcy and national security laws to eliminate impediments to ongoing operations and asset transfers.
- Obtained post plan regulatory approvals for transfer of telecommunications licenses, customers and assets

Legal Management:

- Developed and supervised multinational legal, regulatory and government affairs group consisting of 56 attorneys, engineers, analysts, investigators and other professional staff.
- Administered legal and regulatory budget of $12 million for external counsel and other vendors worldwide.

NATIONAL CAPITAL MANAGEMENT CORPORATION – New York, NY

General Counsel and Corporate Secretary **1989 – 1994**

NASDAQ traded company focusing primarily on acquisition of US real estate interests, structured settlement and viatical insurance and distressed operations. NCMC acted as lead investor and administrative arm for several private investment groups led by Grace/Pinto Funding, Resource Holdings and related entities. Negotiated and completed investment transactions in excess of $200 Million for itself and related investment groups.

NIXON, HARGRAVE, DEVANS & DOYLE – New York, NY

Partner (1987-89)/Counsel (1989-90) **1987 – 1990**

Represented clients involved in a full spectrum of corporate and other legal matters, including mergers, acquisitions, public and private securities offerings, financings, workouts and restructurings. Clients included private investment groups, international banks, credit enhancers, public companies, major insurance brokers and NYS Insurance Department (Liquidation Bureau).

ALEXANDER & GREEN – New York, NY

Partner (1984-87)/Associate (1978-84) **1978 – 1987**

Represented clients in connection with banking, securities law compliance, leveraged buyouts, mergers, acquisitions and divestitures by foreign and domestic companies, workouts and insolvencies, and commercial and other contract negotiation. Advised outside directors in contested takeovers, going private transactions and internal investigations.

LORD DAY & LORD – New York, NY
Associate **1975 – 1978**
Practice involved secured bank financings, creditor's rights, restructurings representing institutional lenders, securities regulation, financial trade association representation and HR/employment matters.

EDUCATION

FORDHAM UNIVERSITY SCHOOL OF LAW
New York, NY
Juris Doctor, 1975
Associate Editor, Fordham Law Review (1975)
Member, International Moot Court Team (1975)

GEORGETOWN UNIVERSITY,
SCHOOL OF FOREIGN SERVICE
Washington, DC
Bachelor of Science in Foreign Service, 1972

LEGAL, PROFESSIONAL AND OTHER ACTIVITIES

Member – Connecticut Department of Insurance – Task Force on Insurance Company Run-off and Reorganization **2005-2006**
Member – International Association of Insurance Receivers **2006-2011**
Co-Chairman – American Conference Institute's Fifth and Sixth International Advanced Forums on Insurance Company Run-off **2005-2006**
Speaker – Practising Law Institute, Am Law Institute, Mealeys, NYC Bar Assoc, etc. Topics included, restructuring, insurance runoff, corporate governance, multinational Insolvency, D&O protection and legal cost management **1997-2007**
Member – American Bar Association, Corporation, Banking and Business Law Section **1986-2002**
Chairman – Securities Law Committee ABA-YLD **1984-1986**
Co-Author – Financing of Foreign Companies through United States Capital Markets **1985**

Exhibit F

Form of Senior First Lien Notes Indenture

SENIOR FIRST LIEN NOTES INDENTURE

Dated as of [ ], 2012

by and between

WASHINGTON MUTUAL, INC.

and

Wilmington Trust, National Association

as Trustee

13% SENIOR FIRST LIEN NOTES DUE 2030

CROSS-REFERENCE TABLE*

Trust Indenture Act Section	Indenture Section
310(a)(1)	8.10
(a)(2)	8.10
(a)(3)	N.A.
(a)(4)	N.A.
(a)(5)	8.10
(b)	8.10
311(a)	8.11
(b)	8.11
312(a)	2.05
(b)	13.03
(c)	13.03
313(a)	8.06
(b)(1)	8.06
(b)(2)	8.06; 8.07
(c)	8.06; 13.02
(d)	8.06
314(a)	5.05; 5.06; 13.05
(b)	12.01
(c)(1)	13.04
(c)(2)	13.04
(c)(3)	N.A.
(d)	N.A.
(e)	13.05
(f)	N.A.
315(a)	8.01
(b)	8.05; 13.02
(c)	8.01
(d)	8.01
(e)	7.15
316(a)(1)(A)	7.06
(a)(1)(B)	7.05
(a)(2)	N.A.
(b)	10.02
(c)	2.12; 10.04
317(a)(1)	7.09
(a)(2)	7.13
(b)	2.04
318(a)	13.01
(b)	N.A.
(c)	13.01

N.A. means not applicable.

* This Cross-Reference Table is not part of this Indenture.

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SENIOR FIRST LIEN NOTES INDENTURE, dated as of [ ], 2012, between Washington Mutual, Inc., a Washington corporation ("Issuer"), and Wilmington Trust, National Association, as trustee.

W I T N E S S E T H

WHEREAS, the Issuer has duly authorized the creation of an issue of $110,000,000 aggregate principal amount of 13% Senior First Lien Notes due 2030 (together with any increases in the aggregate principal amount thereof, or any PIK Notes, the "Notes"); and

WHEREAS, the Issuer has duly authorized the execution and delivery of this Indenture.

NOW, THEREFORE, the Issuer and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders of the Notes.

ARTICLE I

DEFINITIONS AND INCORPORATION BY REFERENCE

SECTION 1.01. Definitions.

"Acquisition Credit Facility" means that financing agreement dated as of [ ], 2012, by and among the Issuer, the guarantors party thereto, the lenders party thereto and U.S. Bank National Association, as agent, including any guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, renewals, restatements, refundings or refinancings or replacements (whether upon or after termination or otherwise) thereof in whole or in part from time to time, including any agreement that replaces, refunds or refinances any part of the loans, notes, other credit facilities or commitments thereunder, including any such replacement, refunding or refinancing facility or indenture that increases the amount borrowable thereunder or alters the maturity thereof or adds or removes borrowers or guarantors, and whether with the same or another agent, lender or group of lenders.

"Affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlling," "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise.

"Agent" means any Registrar or Paying Agent.

"Applicable Procedures" means, with respect to any transfer or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depositary, Euroclear and Clearstream that apply to such transfer, redemption or exchange.

"Bankruptcy Law" means Title 11, U.S. Code or any similar federal law or Chapter 431, Article 15 of the Hawaii Code or any similar state law.

"Business Day" means each day which is not a Legal Holiday.

"Capital Stock" means:

(1) in the case of a corporation, corporate stock;

(2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;

(3) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and

(4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

"Cash Equivalents" means (a) marketable direct obligations issued or unconditionally guaranteed by the United States Government or issued by any agency thereof and backed by the full faith and credit of the United States, in each case, maturing within six months from the date of acquisition thereof, (b) commercial paper, maturing not more than 270 days after the date of issue rated P-1 by Moody's or A-1 by Standard & Poor's, (c) certificates of deposit maturing not more than 270 days after the date of issue, issued by commercial banking institutions and money market or demand deposit accounts maintained at commercial banking institutions, each of which is a member of the Federal Reserve System and has a combined capital and surplus and undivided profits of not less than $500,000,000 and a Thomson Bank Watch Rating of "BBB" or better, (d) money market accounts maintained with mutual funds having assets in excess of $2,500,000,000, and (e) marketable tax exempt securities rated A or higher by Moody's or A+ or higher by Standard & Poor's, in each case, maturing within six months from the date of acquisition thereof.

"Clearstream" means Clearstream Banking, Société Anonyme.

"Collateral" means all assets and property in which a security interest is granted to secure the Notes Obligations.

"Collateral Account" means a separate securities and/or deposit account established and maintained by the Issuer in which the Collateral Agent has a valid perfected first and second priority security interest and exclusive dominion and control in accordance with the terms of the Security Documents.

"Collateral Agent" means Wilmington Trust, National Association, in its capacity as collateral agent under the Security Documents, until a successor replaces it in accordance with the applicable provisions of the Intercreditor Agreement and thereafter means the successor serving thereunder.

"Control Agreement" means the Control Agreement, dated as of [ ], among the Issuer, Collateral Agent and [ ], as depository bank and/or securities intermediary, and any other agreement providing to the Collateral Agent "control" of the Collateral Account within the meaning of Articles 8 and 9 or the Uniform Commercial Code.

"Corporate Trust Office of the Trustee" shall be at the address of the Trustee specified in Section 13.02 hereof or such other address as to which the Trustee may give notice to the Holders and the Issuer.

"Credit Facility" means, with respect to the Issuer or any of its subsidiaries, one or more debt facilities, including the Acquisition Credit Facility, or other financing arrangements (including, with-

out limitation, commercial paper facilities or indentures) providing for revolving credit loans, term loans, letters of credit or other long-term indebtedness, including any notes, mortgages, guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, renewals, restatements, refundings or replacements (whether or not upon or after termination or otherwise) thereof and any indentures or credit facilities or commercial paper facilities that replace, refund or refinance any part of the loans, notes, other credit facilities or commitments thereunder, including any such replacement, refunding or refinancing facility or indenture that increases the amount permitted to be borrowed thereunder or alters the maturity thereof or adds subsidiaries as additional borrowers or guarantors thereunder and whether by the same or any other agent, lender or group of lenders.

"Custodian" means the Trustee, as custodian with respect to the Notes, each in global form, or any successor entity thereto.

"Default" means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

"Definitive Note" means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06 hereof, substantially in the form of Exhibit A hereto, except that such Note shall not bear the Global Note Legend and shall not have the "Schedule of Exchanges of Interests in the Global Note" attached thereto.

"Depositary" means, with respect to the Notes issuable or issued in whole or in part in global form, any Person specified in Section 2.03 hereof as the Depositary with respect to the Notes, and any and all successors thereto appointed as Depositary hereunder and having become such pursuant to the applicable provision of this Indenture.

"Euroclear" means Euroclear S.A./N.V., as operator of the Euroclear system.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder.

"Global Note Legend" means the legend set forth in Section 2.06(b) hereof, which is required to be placed on all Global Notes issued under this Indenture.

"Global Notes" means, individually and collectively, each of the Global Notes, substantially in the form of Exhibit A hereto, issued in accordance with Section 2.01 or 2.06 hereof.

"Government Securities" means securities that are:

(1) direct obligations of the United States of America for the timely payment of which its full faith and credit is pledged; or

(2) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the timely payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America,

which, in either case, are not callable or redeemable at the option of the issuer thereof, and shall also include a depository receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act), as custodian with respect to any such Government Securities or a specific payment of principal of or interest on any such Government Securities held by such custodian for the account of

the holder of such depository receipt; provided that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of the Government Securities or the specific payment of principal of or interest on the Government Securities evidenced by such depository receipt.

"Governmental Authority" means any nation or government, any Federal, state, city, town, municipality, county, local or other political subdivision thereof or thereto and any department, commission, board, bureau, instrumentality, agency or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

"guarantee" means a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business), direct or indirect, in any manner (including letters of credit and reimbursement agreements in respect thereof), of all or any part of any indebtedness or other Obligations.

"Holder" means the Person in whose name a Note is registered on the Registrar's books.

"Indenture" means this Senior First Lien Notes Indenture, as amended or supplemented from time to time.

"Insurance Book Closing" means the transfer by WMMRC of (i) all Runoff Proceeds held on the date of such transfer, (ii) the right to receive all future Runoff Proceeds and (iii) the Trusts and their assets along with all insurance liabilities associated therewith as of the date of transfer to a protected cell established and maintained pursuant to § 431:19-303 of Title 24 of the Hawaii Insurance Code in conformance with all applicable Requirements of Law, which complies with the following requirements: (w) the protected cell shall be organized as a direct wholly owned subsidiary of the Issuer; (x) the assets of the protected cell shall not be chargeable with liabilities arising out of any other business WMMRC may conduct; (y) the business plan establishing the protected cell shall restrict its business to the administration and management of the Trusts and the assets thereof along with the liabilities associated therewith, and the distribution of the Runoff Proceeds; and (z) the governing documents of the protected cell shall provide that no dividend or distribution may be made to any Person other than the Issuer as provided for in the Notes Documentation and the Second Lien Documentation.

"Intercreditor Agreement" means the Intercreditor Agreement, dated as of [ ], among the Trustee, the Second Lien Trustee and the Credit Agreement Agent (as defined therein), as amended, modified and supplemented from time to time.

"Interest Payment Date" has the meaning set forth in paragraph 1 of each Note.

"Issue Date" means [ ].

"Issuer" means Washington Mutual, Inc., a Washington corporation, and any of its successors.

"Issuer Incremental Amount" means an amount accruing on the outstanding Issuer Priority Amount or the Issuer Secondary Amount, as applicable, at 13% per annum, payable quarterly in arrears on each Interest Payment Date, to the Issuer.

"Issuer Order" means a written request or order signed on behalf of the Issuer by an Officer of the Issuer, who must be the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer of the Issuer, and delivered to the Trustee or the Collateral Agent.

"Issuer Priority Amount" means (i) a principal amount equal to $4.0 million plus (ii) any amounts added due to unpaid Issuer Incremental Amounts in respect of the Issuer Priority Amount, less (iii) any repayments of the Issuer Priority Amounts to the Issuer.

"Issuer Secondary Amount" means (i) a principal amount equal to $6.0 million plus (ii) any amounts added due to unpaid Issuer Incremental Amounts in respect of the Issuer Secondary Amount, less (iii) any repayments of the Issuer Secondary Amounts to the Issuer.

"Legal Holiday" means a Saturday, a Sunday or a day on which commercial banking institutions are not required to be open in the State of New York, the place of payment or the State of Washington, as the case may be. In any case where any Interest Payment Date, Redemption Date or maturity date of any Note shall not be a Business Day, then (notwithstanding any other provision of this Indenture or of the Notes) payment of principal (or premium, if any) or interest need not be made on such date, but may be made on the next succeeding Business Day with the same force and effect as if made on the Interest Payment Date, Redemption Date, or at the maturity date; provided that no interest shall accrue for the period from and after such Interest Payment Date, Redemption Date or maturity date, as the case may be, through such next succeeding Business Day.

"Lien" means, with respect to any asset, any mortgage, lien (statutory or otherwise), pledge, hypothecation, charge, security interest, preference, priority or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction; provided that in no event shall an operating lease be deemed to constitute a Lien.

"Moody's" means Moody's Investors Service, Inc. and any successor thereto.

"Notes" means the Notes authenticated and delivered under this Indenture including any PIK Notes subsequently issued under this Indenture.

"Notes Documentation" means the Notes, this Indenture and the Security Documents.

"Notes Obligations" means Obligations in respect of this Indenture, the Notes and to the extent relating to this Indenture or the Notes, the Security Documents, including for the avoidance of doubt, Obligations in respect of guarantees thereof.

"Obligations" means any principal, interest, penalties, fees, indemnifications, reimbursements and all other present and future indebtedness, obligations, and liabilities under the documentation governing any indebtedness, whether or not the right of payment in respect of such indebtedness, obligations and liabilities is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, disputed, undisputed, legal, equitable, secured, unsecured, and whether or not such indebtedness, obligations, interest and liabilities are discharged, allowed, stayed or otherwise affected by any proceeding (including whether or not allowed in any proceeding under any Bankruptcy Law).

"Officer" means the Chairman of the Board, the Chief Executive Officer, the President, any Executive Vice President, Senior Vice President or Vice President, the Treasurer or the Secretary of the Issuer.

"Officer's Certificate" means a certificate signed on behalf of the Issuer by an Officer of the Issuer, who must be the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer of the Issuer, that meets the requirements set forth in this Indenture.

"Opinion of Counsel" means a written opinion from legal counsel who is reasonably acceptable to the Trustee. The counsel may be an employee of or counsel to the Issuer or the Trustee.

"Owner" means (x) WMMRC until the occurrence of an Insurance Book Closing and (y) the protected cell created by such Insurance Book Closing to which the Runoff Proceeds, the Trusts and the assets thereof are transferred, thereafter, in accordance with the terms of the Notes Documentation.

"Participant" means, with respect to the Depositary, Euroclear or Clearstream, a Person who has an account with the Depositary, Euroclear or Clearstream, respectively, (and, with respect to DTC, shall include Euroclear and Clearstream).

"Permitted Lien" means a Lien securing Obligations of the Issuer under (i) the Notes Documentation, (ii) the Second Lien Documentation and (iii) the Acquisition Credit Facility, in each case, subject to the terms of the Intercreditor Agreement.

"Person" means any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other entity.

"PIK Interest" means interest paid with respect to the Notes in the form of increasing the outstanding principal amount of the Notes or issuing PIK Notes.

"PIK Notes" mean additional Notes issued under this Indenture on the same terms and conditions as the Notes issued on the Issue Date in connection with a PIK Payment. For purposes of this Indenture, all references to "PIK Notes" shall include the Related PIK Notes.

"PIK Payment" means an interest payment with respect to the Notes made by increasing the outstanding principal amount of the Notes or issuing PIK Notes.

"Record Date" for the interest payable on any applicable Interest Payment Date means with respect to the Notes, the [ ], [ ], [ ] or [ ] (whether or not a Business Day) immediately preceding such Interest Payment Date.

"Related PIK Notes" means, with respect to a Note, (i) each PIK Note issued in connection with a PIK Payment on such Note and (ii) each additional PIK Note issued in connection with a PIK Payment on a Related PIK Note with respect to such Note.

"Requirements of Law" means, with respect to any Person, collectively, the common law and all federal, state, provincial, local, foreign, multinational or international laws, statutes, codes, treaties, standards, rules and regulations, guidelines, ordinances, orders, judgments, writs, injunctions, decrees (including administrative or judicial precedents or authorities) and the interpretation or administration thereof by, and other determinations, directives, requirements or requests of, any Governmental Au-

thority, in each case that are applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"Responsible Officer" means, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such Person's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

"Runoff Proceeds" means (a)(i) all net premiums, reinsurance recoverables, net revenue resulting from commutation of insurance contracts, net interest income, reserve releases and other revenues derived from the reinsurance contracts, investments and other assets of the Trusts less, without duplication, (ii)(A) the reasonable and necessary costs and expenses of the Trusts and the Owner (including, but not limited to, general and administrative expenses, audit fees, required regulatory capital contributions (which capital contributions will be added back to the Runoff Proceeds if applicable regulations permit such distributions thereof), expenses of regulatory compliance, including all costs associated with the Insurance Book Closing, expenses of administering this Indenture and taxes) attributable to the administration of the Trusts or the assets thereof and the collection of premiums and/or management of investments in connection therewith (which expenses shall include reasonable and customary expenses attributable to the foregoing paid under any administrative services agreement, investment management agreement or similar agreement), and (B) claims paid for covered losses and (b) the proceeds from the foregoing received by the Owner or the Issuer in cash, securities and/or other property from any sale, liquidation, merger or other disposition in respect of the Owner or its interests in the Trusts or the assets thereof. The inclusion of clause (b) of this definition shall not be construed as a consent to any sale, liquidation, merger or other disposition or waiver of compliance with any covenant related thereto. For the avoidance of doubt, to the extent that Issuer or WMMRC pays any such cost , capital contribution or expense described in clause (ii)(A), payment by Issuer or WMMRC will be deemed a cost or expense of the Trusts.

"SEC" means the U.S. Securities and Exchange Commission.

"Second Lien Collateral" means all assets and property in which a security interest is granted to secure the Second Lien Notes.

"Second Lien Documentation" means the Second Lien Notes, the Second Lien Indenture and the Second Lien Notes Security Documents.

"Second Lien Indenture" means that certain Senior Second Lien Notes Indenture, dated as of [ ], 2012, between the Issuer and the Second Lien Trustee with respect to the Second Lien Notes, as amended or supplemented from time to time.

"Second Lien Notes" means $20.0 million aggregate principal amount of the Issuer's 13% Senior Second Lien Notes due 2030 issued pursuant to and in accordance with the Second Lien Indenture.

"Second Lien Notes Obligations" means Obligations in respect of the Second Lien Indenture, the Second Lien Notes and to the extent relating to the Second Lien Indenture or the Second Lien Notes, the Second Lien Security Documents, including for the avoidance of doubt, Obligations in respect of guarantees thereof.

"Second Lien Notes Security Documents" means , collectively, the Intercreditor Agreement and any security agreements, control agreements and directions to pay relating to the Second Lien Collateral executed and delivered and/or filed and recorded in appropriate jurisdictions to preserve and protect the Liens on the Collateral (including, without limitation, financing statements under the Uniform Commercial Code of the relevant states) related to the security interests granted by any of the foregoing documents and any other document or instrument evidencing, creating or providing for a Lien on any real or personal tangible or intangible property as security for any or all of the obligations under the Second Lien Documentation.

"Second Lien Trustee" means Law Debenture Trust Company of New York, as trustee under the Second Lien Indenture, until a successor trustee replaces it in accordance with the applicable provisions of the Second Lien Indenture, after which time such term shall mean the successor trustee serving thereunder.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

"Security Agreement" means the Pledge and Security Agreement, dated as of [ ], 2012, by and among the Issuer, the Trustee, the Second Lien Trustee, the Collateral Agent, and U.S. Bank National Association, as Third Lien Agent (as defined therein), as the same may be amended, restated, amended and restated, renewed, replaced, supplemented or otherwise modified from time to time.

"Security Documents" means, collectively, the Security Agreement, the Intercreditor Agreement, the Control Agreement, other security agreements and directions to pay relating to the Collateral executed and delivered and/or filed and recorded in appropriate jurisdictions to preserve and protect the Liens on the Collateral (including, without limitation, financing statements under the Uniform Commercial Code of the relevant states) related to the security interests granted by any of the foregoing documents and any other document or instrument evidencing, creating or providing for a Lien on any real or personal tangible or intangible property as security for any or all of the Note Obligations under the Note Documents or any of the foregoing documents (including, without limitation, all such documents, agreements and instruments evidencing Liens required to be granted pursuant to Section 5.03(b)).

"Standard & Poor's" means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. and any successor thereto.

"Subsidiary" means, with respect to any Person:

(1) any corporation, association, or other business entity (other than a partnership, joint venture, limited liability company or similar entity) of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof; and

(2) any partnership, joint venture, limited liability company or similar entity of which

(x) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general or limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiar-

ies of that Person or a combination thereof whether in the form of membership, general, special or limited partnership or otherwise, and

(y) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

"Trust Indenture Act" means the Trust Indenture Act of 1939, as amended (15 U.S.C. §§ 77aaa-77bbbb).

"Trustee" means Wilmington Trust, National Association, as trustee, until a successor replaces it in accordance with Section 8.08 or Section 8.09 and thereafter means the successor serving hereunder.

"Trusts" means (a) Home Loan Reinsurance Co. United Guaranty Residential Insurance Company Reinsurance Agreement (Acct. No. x6401); (b) Home Loan Reinsurance Co. Genworth Reinsurance Co. Trust Agreement (Acct. No. x6403); (c) Mortgage Guaranty Insurance Corporation/WM MTG Reinsurance Co. Trust; (Acct. No. x2400); (d) Reinsurance Escrow Agreement among WM Mortgage Reinsurance Co. PMI Mortgage Insurance Company and US Bank (Acct. No. x6404); (e) Radian Guaranty Inc. and WM Mortgage Reinsurance Company Agreement, dated March 27, 2001 (Acct. No. x5700); (f) Home Loan Reinsurance Co. Republic Mortgage Co. Reinsurance Agreement, dated December 14, 1998 (Acct. No. x6402); (g) Washington Mutual Custody Account (Acct. No. x6406); and (h) WM Mortgage Reinsurance Company Inc. (Acct. No. x4202).

"Uniform Commercial Code" means the New York Uniform Commercial Code as in effect from time to time.

"WMMRC" means WM Mortgage Reinsurance Company, Inc., a Hawaii corporation and direct wholly-owned subsidiary of the Issuer.

SECTION 1.02. Other Definitions.

Term	Defined in Section
"Authentication Order"	2.02
"Covenant Defeasance"	9.03
"DTC"	2.03
"Event of Default"	7.01
"Legal Defeasance"	9.02
"Note Register"	2.03
"Paying Agent"	2.03
"Redemption Date"	3.07
"Registrar"	2.03
"Runoff Payment Date"	4.02(b)
"Runoff Proceeds Distribution"	4.02(a)
"Successor Company"	6.01

SECTION 1.03. Incorporation by Reference of Trust Indenture Act. Whenever this Indenture refers to a provision of the Trust Indenture Act ("TIA"), the provision is incorporated by reference in and made a part of this Indenture. The following TIA terms have the following meanings:

"indenture securities" means the Notes;

"indenture security Holder" means a Holder of a Note;

"indenture to be qualified" means this Indenture;

"indenture trustee" or "institutional trustee" means the Trustee; and

"obligor" on the Notes means the Issuer and any successor obligor upon the Notes. All other terms used in this Indenture that are defined by the Trust Indenture Act, defined by Trust Indenture Act reference to another statute or defined by SEC rule under the Trust Indenture Act have the meanings so assigned to them.

SECTION 1.04. Rules of Construction. Unless the context otherwise requires:

(a) a term has the meaning assigned to it;

(b) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

(c) "or" is not exclusive;

(d) "including" means including without limitation;

(e) words in the singular include the plural, and in the plural include the singular;

(f) "will" shall be interpreted to express a command;

(g) provisions apply to successive events and transactions;

(h) references to sections of, or rules under, the Securities Act shall be deemed to include substitute, replacement or successor sections or rules adopted by the SEC from time to time;

(i) unless the context otherwise requires, any reference to an "Article," "Section" or "clause" refers to an Article, Section or clause, as the case may be, of this Indenture; and

(j) the words "herein," "hereof" and "hereunder" and other words of similar import refer to this Indenture as a whole and not any particular Article, Section, clause or other subdivision.

SECTION 1.05. Acts of Holders.

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by an agent duly appointed in writing. Except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments or record or both are delivered to the Trustee and, where it is hereby expressly required, to the Issuer. Proof of execution of any such instrument or of a writing appointing any such agent, or the holding by any Person of a Note, shall be sufficient for any purpose of this Indenture and (subject to Section 8.01) conclusive in favor of the Trustee and the Issuer, if made in the manner provided in this Section 1.05.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by or on behalf of any legal entity other than an individual, such certificate or affidavit shall also constitute proof of the authority of the Person executing the same. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner that the Trustee deems sufficient.

(c) The ownership of Notes shall be proved by the Note Register.

(d) Any request, demand, authorization, direction, notice, consent, waiver or other action by the Holder of any Note shall bind every future Holder of the same Note and the Holder of every Note issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof, in respect of any action taken, suffered or omitted by the Trustee or the Issuer in reliance thereon, whether or not notation of such action is made upon such Note.

(e) The Issuer may, at its option in the circumstances permitted by the Trust Indenture Act, set a record date for purposes of determining the identity of Holders entitled to give any request, demand, authorization, direction, notice, consent, waiver or take any other act, or to vote or consent to any action by vote or consent authorized or permitted to be given or taken by Holders, but the Issuer shall have no obligation to do so.

(f) Without limiting the foregoing, a Holder entitled to take any action hereunder with regard to any particular Note may do so with regard to all or any part of the principal amount of such Note or by one or more duly appointed agents, each of which may do so pursuant to such appointment with regard to all or any part of such principal amount. Any notice given or action taken by a Holder or its agents with regard to different parts of such principal amount pursuant to this paragraph shall have the same effect as if given or taken by separate Holders of each such different part.

(g) Without limiting the generality of the foregoing, a Holder, including the Depositary, may make, give or take, by a proxy or proxies duly appointed in writing, any request, demand, authorization, direction, notice, consent, waiver or other action provided in this Indenture to be made, given or taken by Holders, and the Depositary may provide its proxy to the beneficial owners of interests in any such Global Note through such Depositary's standing instructions and customary practices.

(h) The Issuer may fix a record date for the purpose of determining the Persons who are beneficial owners of interests in any Global Note held by DTC entitled under the procedures of such Depositary to make, give or take, by a proxy or proxies duly appointed in writing, any request, demand, authorization, direction, notice, consent, waiver or other action provided in this Indenture to be made, given or taken by Holders. If such a record date is fixed, the Holders on such record date or their duly appointed proxy or proxies, and only such Persons, shall be entitled to make, give or take such request, demand, authorization, direction, notice, consent, waiver or other action, whether or not such Holders remain Holders after such record date. No such request, demand, authorization, direction, notice, consent, waiver or other action shall be valid or effective if made, given or taken more than 90 days after such record date.

ARTICLE II

THE NOTES

SECTION 2.01. Form and Dating; Terms.

(a) General. The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A hereto. The Notes may have notations, legends or endorsements required by law, stock exchange rules or usage. Each Note shall be dated the date of its authentication. The Notes shall be issued in whole dollar ($1.00) amounts and integral multiples of $1.00, subject to the issuance of PIK Interest pursuant to Section 4.02 hereof, in which case the aggregate principal amount of Notes may be increased by, or PIK Notes may be issued in, an aggregate principal amount equal to the amount of PIK Interest paid by the Issuer for the applicable period, rounded up to the nearest whole dollar.

(b) Global Notes. Notes issued in global form shall be substantially in the form of Exhibit A hereto (including the Global Note Legend thereon and the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Notes issued in definitive form shall be substantially in the form of Exhibit A hereto (but without the Global Note Legend thereon and without the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Each Global Note shall represent such of the outstanding Notes as shall be specified on the face of such Global Note, as increased or decreased in the "Schedule of Exchanges of Interests in the Global Note" attached thereto and by the payment of PIK Interest and each shall provide that it shall represent up to the aggregate principal amount of Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as applicable, to reflect exchanges and redemptions and the payment of PIK interest by increasing or reducing the aggregate principal amount of such Global Note. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby shall be made by the Trustee or the Custodian, at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.06 hereof or the Issuer in accordance with Section 2.01(d).

(c) Terms. The terms and provisions contained in the Notes shall constitute, and are hereby expressly made, a part of this Indenture and the Issuer and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any Note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.

(d) Issuance of PIK Notes. In connection with the payment of PIK Interest, the Issuer is entitled to, without the consent of the Holders, increase the outstanding principal amount of the Notes or issue PIK Notes.

SECTION 2.02. Execution and Authentication. At least one Officer of the Issuer shall execute the Notes on behalf of the Issuer by manual, facsimile or electronic (e.g. .pdf) signature.

If an Officer of the Issuer whose signature is on a Note no longer holds that office at the time the Trustee authenticates the Note, the Note shall nevertheless be valid.

A Note shall not be entitled to any benefit under this Indenture or be valid or obligatory for any purpose until authenticated substantially in the form of Exhibit A attached hereto, as the case may be, by the manual signature of the Trustee. The signature shall be conclusive evidence that the Note has been duly authenticated and delivered under this Indenture.

On the Issue Date, the Trustee shall, upon receipt of an Issuer Order (an "Authentication Order"), which order shall set forth the number of separate Note certificates, the principal amount of each of the Notes to be authenticated, the date on which the Notes are to be authenticated, the registered holder of each Note and delivery instructions, authenticate and deliver the Notes. In addition, at any time, from time to time, the Trustee shall upon receipt of an Authentication Order authenticate and deliver any PIK Notes.

The Trustee may appoint an authenticating agent acceptable to the Issuer to authenticate Notes. An authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as an Agent to deal with Holders or an Affiliate of the Issuer.

SECTION 2.03. Registrar and Paying Agent. The Issuer shall maintain (i) an office or agency where Notes may be presented for registration of transfer or for exchange ("Registrar") and (ii) an office or agency where Notes may be presented for payment ("Paying Agent"). The Registrar shall keep a register of the Notes ("Note Register") reflecting the ownership of the Notes outstanding from time to time and of their transfer. The Registrar shall also facilitate the transfer of the Notes on behalf of the Issuer in accordance with Section 2.06 hereof. The Issuer may appoint one or more co-registrars and one or more additional paying agents. The term "Registrar" includes any co-registrar, and the term "Paying Agent" includes any additional paying agents. The Issuer initially appoints the Trustee as Paying Agent. The Issuer may change any Paying Agent or Registrar without prior notice to any Holder. The Issuer shall notify the Trustee in writing of the name and address of any Agent not a party to this Indenture. If the Issuer fails to appoint or maintain another entity as Registrar or Paying Agent, the Trustee shall, to the extent that it is capable, act as such.

The Issuer initially appoints The Depository Trust Company ("DTC") to act as Depositary with respect to the Global Notes representing the Notes.

The Issuer initially appoints the Trustee to act as the Registrar and Paying Agent for the Notes and the Trustee agrees to initially so act.

SECTION 2.04. Paying Agent to Hold Money in Trust. The Issuer shall require each Paying Agent other than the Trustee to agree in writing that the Paying Agent shall hold in trust for the benefit of Holders or the Trustee all money held by the Paying Agent for the payment of principal, premium, if any, or interest on the Notes, and will notify the Trustee of any default by the Issuer in making any such payment. While any such default continues, the Trustee may require a Paying Agent to pay all money held by it to the Trustee. The Issuer at any time may require a Paying Agent to pay all money held by it to the Trustee. Upon payment over to the Trustee, the Paying Agent (if other than the Issuer or a Subsidiary) shall have no further liability for such funds. If the Issuer or a Subsidiary acts as Paying Agent, it shall segregate and hold in a separate trust fund for the benefit of the Holders all funds held by it as Paying Agent. Upon any Event of Default pursuant to Section 7.01(5), (6) or (7), the Trustee shall serve as Paying Agent for the Notes.

SECTION 2.05. Holder Lists. The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of all Holders and shall otherwise comply with Trust Indenture Act Section 312(a). If the Trustee is not the Registrar, the Issuer shall furnish to the Trustee at least five (5) Business Days before each Interest Payment Date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of the Holders of Notes and the Issuer shall otherwise comply with Trust Indenture Act Section 312(a).

SECTION 2.06. Transfer and Exchange.

(a) When Notes are presented to the Registrar with a request to register the transfer or to exchange them for an equal principal amount of Notes of other denominations, the Registrar shall register the transfer or make the exchange if its requirements for such transactions are met; provided, however, that any Note presented or surrendered for transfer or exchange shall be duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar and the Trustee duly executed by the Holder thereof or by his attorney duly authorized in writing. To permit registrations of transfers and exchanges, the Issuer shall execute and the Trustee shall authenticate Global Notes and Definitive Notes upon the Issuer's order or at the Registrar's request.

The Registrar shall not be required to register the transfer of or exchange any Note selected for prepayment in whole or in part, except the portion not being paid of any Note being prepaid in part.

The Issuer shall not be required (A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business 15 days before the day of selection of Notes to be redeemed under Section 3.02 hereof and ending at the close of business on the day of selection, (B) to register the transfer of or to exchange any Note so selected for redemption in whole or in part, except the portion not being paid of any Note being redeemed in part or (C) to register the transfer of or to exchange a Note between a record date and the next succeeding Interest Payment Date.

No service charge shall be made to any Holder of a Note for any registration of transfer or exchange (except as otherwise permitted herein), but the Issuer may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than such transfer tax or similar governmental charge payable upon exchanges pursuant to Sections 2.10 and 3.06 hereof, which shall be paid by the Issuer).

Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Issuer may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and Interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Issuer shall be affected by notice to the contrary.

(b) Each Global Note shall bear a legend in substantially the following form:

"UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), NEW YORK, NEW YORK, TO THE ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF DTC OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS

OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF."

(c) Cancellation and/or Adjustment of Global Notes. At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or the Issuer has repurchased a particular Global Note or a particular Global Note has been prepaid, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 2.11 hereof. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note shall be reduced accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Custodian at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Custodian at the direction of the Trustee to reflect such increase.

(d) Owners of interests in the Global Note will be entitled to have individual Definitive Notes registered in their names and to receive certificates in respect thereof if (i) DTC notifies the Issuer in writing that it is no longer willing or able to discharge properly its responsibilities as Depositary with respect to the Notes, or ceases to be a "clearing agency" under applicable law, or is at any time no longer eligible to act as such and the Issuer is not able to appoint a qualified successor within 90 days of receiving notice or becoming aware of such ineligibility, or (ii) DTC or any alternative clearing system on behalf of which the Notes evidenced by a Global Note may be held is closed for business for a continuous period of 14 days (other than by reason of holidays, statutory or otherwise) or announces an intention permanently to cease business or in fact does so, the Issuer will cause sufficient certificates for individual Definitive Notes to be issued, executed and delivered to the Registrar and upon receipt of an Issuer Order by the Trustee, such Notes shall be authenticated and dispatched to the relevant Holders. In connection with any such delivery, a person having an interest in the Global Note must provide to the Registrar a written order containing instructions and such other information and certifications as the Issuer and the Trustee may require to complete, execute and deliver such certificates in respect of individual Definitive Notes.

SECTION 2.07. Replacement Notes

If any mutilated Note is surrendered to the Trustee, the Registrar or the Issuer or the Trustee receives evidence to its satisfaction of the ownership and destruction, loss or theft of any Note, the Issuer shall issue and the Trustee, upon receipt of an Authentication Order, shall authenticate a replacement Note if the Trustee's requirements are met. If required by the Trustee or the Issuer an indemnity bond must be supplied by the Holder that is sufficient in the judgment of the Trustee and the Issuer to protect the Issuer, the Trustee, any Agent and any authenticating agent from any loss that any of them may suffer if a Note is replaced. The Issuer and the Trustee may charge the Holder for their expenses in replacing a Note.

Every replacement Note issued in accordance with this Section 2.07 is a contractual obligation of the Issuer and shall be entitled to all of the benefits of this Indenture equally and proportionately with all other Notes duly issued hereunder.

SECTION 2.08. Outstanding Notes. The Notes outstanding at any time are all the Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Note effected by the Trustee in accordance with the provisions hereof and those described in this Section 2.08 as not outstanding. Except as set forth in Section 2.09 hereof, a Note does not cease to be outstanding because the Issuer or an Affiliate of the Issuer holds the Note.

If a Note is replaced pursuant to Section 2.07 hereof, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Note is held by a protected purchaser (as defined in Section 8-303 of the Uniform Commercial Code).

If the principal amount of any Note is considered paid under Section 5.01 hereof, it ceases to be outstanding and interest on it ceases to accrue.

If the Paying Agent holds, on a Redemption Date or maturity date, money sufficient to pay the principal amount of the Notes (or portions thereof) payable on that date and accrued but unpaid interest thereon, then on and after that date such Notes (or portions thereof) shall be deemed to be no longer outstanding and shall cease to accrue interest.

SECTION 2.09. Treasury Notes. In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Issuer or by any Affiliate of the Issuer, shall be considered as though not outstanding, except that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes that a Responsible Officer of the Trustee knows are so owned shall be so disregarded.

SECTION 2.10. Temporary Notes. Until certificates representing Notes are ready for delivery, the Issuer may prepare and the Trustee, upon receipt of an Authentication Order, shall authenticate temporary Notes. Temporary Notes shall be substantially in the form of Definitive Notes but may have variations that the Issuer considers appropriate for temporary Notes and as shall be reasonably acceptable to the Trustee. Without unreasonable delay, the Issuer shall prepare and the Trustee shall authenticate Definitive Notes in exchange for temporary Notes.

Holders and beneficial holders, as the case may be, of temporary Notes shall be entitled to all of the benefits accorded to Holders, or beneficial holders, respectively, of Notes under this Indenture.

SECTION 2.11. Cancellation. The Issuer at any time may deliver Notes to the Trustee for cancellation. The Registrar and Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee or, at the direction of the Trustee, the Registrar or the Paying Agent and no one else shall cancel all Notes surrendered for registration of transfer, exchange, payment, replacement or cancellation and shall destroy cancelled Notes (subject to the record retention requirement of the Exchange Act). Upon the request of the Issuer, certification of the destruction of all cancelled Notes shall be delivered to the Issuer. The Issuer may not issue new Notes to replace Notes that it has paid or that have been delivered to the Trustee for cancellation.

SECTION 2.12. Defaulted Interest. If the Issuer defaults in a payment of interest on the Notes, it shall pay the defaulted interest in any lawful manner plus, to the extent lawful, interest payable on the defaulted interest, in each case at the rate provided in the Notes and in Section 5.01 hereof to the Persons who are Holders on a subsequent special record date. The Issuer shall notify the Trustee in writing of the amount of defaulted interest proposed to be paid on each Note and the date of the proposed payment, and at the same time the Issuer shall deposit with the Trustee an amount of money equal to the

aggregate amount proposed to be paid in respect of such defaulted interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such defaulted interest as provided in this Section 2.12. The Issuer shall fix or cause to be fixed each such special record date and payment date; provided that no such special record date shall be less than 10 days prior to the related payment date for such defaulted interest. At least 15 days before any such special record date, the Issuer (or, upon the written request of the Issuer, the Trustee in the name and at the expense of the Issuer) shall mail or cause to be mailed, first-class postage prepaid, to each Holder, with a copy to the Trustee, a notice at his or her address as it appears in the Note Register that states the special record date, the related payment date and the amount of such interest to be paid.

Subject to the foregoing provisions of this Section 2.12 and for greater certainty, each Note delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Note shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Note.

SECTION 2.13. CUSIP/ISIN Numbers. The Issuer in issuing the Notes may use CUSIP and ISIN numbers (in each case, if then generally in use) and, if so, the Trustee shall use CUSIP and ISIN numbers in notices of redemption as a convenience to Holders; provided, that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice of redemption and that reliance may be placed only on the other identification numbers printed on the Notes, and any such redemption shall not be affected by any defect in or omission of such numbers. The Issuer will as promptly as practicable notify the Trustee in writing of any change in the CUSIP and ISIN numbers.

SECTION 2.14. Calculation of Principal Amount of Securities. The aggregate principal amount of the Notes, at any date of determination, shall be the principal amount of the Notes, including any PIK Notes issued in respect thereof, and any increase in the principal amount thereof, as a result of a PIK Payment at such date of determination. With respect to any matter requiring consent, waiver, approval or other action of the Holders of a specified percentage of the principal amount of all the Notes, such percentage shall be calculated, on the relevant date of determination, by dividing (a) the principal amount, as of such date of determination, of Notes, the Holders of which have so consented by (b) the aggregate principal amount, as of such date of determination, of the Notes then outstanding, in each case, as determined in accordance with the preceding sentence, Section 2.08 and Section 2.09 of this Indenture. Any such calculation made pursuant to this Section 2.14 shall be made by the Issuer and delivered to the Trustee pursuant to an Officer's Certificate.

SECTION 2.15. No Gross Up; Withholding. The Issuer shall not be obligated to pay additional amounts to the Holders or beneficial owners of the Notes as a result of any withholding or deduction for, or an account of, any present or future taxes, duties, assessments, withholding or governmental change with respect to the Notes. Because the status of the Second Lien Notes is unclear, it is anticipated that distributions on the Second Lien Notes are subject to U.S. federal income withholding tax.

ARTICLE III

REDEMPTION

SECTION 3.01. Notices to Trustee. If the Issuer elects to redeem the Notes pursuant to Section 3.07 hereof, it shall furnish to the Trustee, at least five (5) Business Days (or such shorter period as allowed by the Trustee) before notice of redemption is required to be mailed or caused to be

mailed to Holders pursuant to Section 3.03 hereof but not more than 60 days before a Redemption Date, an Officer's Certificate of the Issuer setting forth (i) the paragraph or subparagraph of such Note and/or Section of this Indenture pursuant to which the redemption shall occur, (ii) the Redemption Date, (iii) the principal amount of the Notes, to be redeemed and (iv) the redemption price.

SECTION 3.02. Selection of Notes to Be Redeemed. If less than all of the Notes are to be redeemed at any time, the Trustee shall select the Notes of such series to be redeemed (a) if the Notes are listed on any national securities exchange, in compliance with the requirements of the principal national securities exchange on which the Notes are listed or (b) on a pro rata basis to the extent practicable, or, if the pro rata basis is not practicable for any reason, by lot or by such other method the Trustee shall deem fair and appropriate. In the event of partial redemption by lot, the particular Notes to be redeemed shall be selected, unless otherwise provided herein, not less than 30 nor more than 60 days prior to the Redemption Date by the Trustee from the outstanding Notes not previously called for redemption.

The Trustee shall promptly notify the Issuer in writing of the Notes selected for redemption and, in the case of any Note selected for partial redemption, the principal amount thereof to be redeemed. Notes and portions of Notes selected shall be in whole dollar ($1.00) amounts or whole dollar multiples in excess thereof. Except as provided in the preceding sentence, provisions of this Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption.

SECTION 3.03. Notice of Redemption. The Issuer shall request and the Trustee shall be authorized to provide a list of record holders, as of a date determined by the Issuer. The Issuer shall mail or cause to be mailed by first-class mail notices of redemption at least 30 days but not more than 60 days before the Redemption Date to each Holder of Notes to be redeemed at such Holder's registered address appearing in the Note Register or otherwise in accordance with Applicable Procedures. Notices of redemption may not be conditional.

The notice shall identify the Notes to be redeemed and shall state:

(a) the Redemption Date;

(b) if any Note is to be redeemed in part only, the portion of the principal amount of that Note that is to be redeemed and that, after the Redemption Date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed portion of the original Note representing the same indebtedness to the extent not redeemed will be issued in the name of the Holder of the Notes upon cancellation of the original Note;

(c) the name and address of the Paying Agent;

(d) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;

(e) that, unless the Issuer defaults in making such redemption payment, interest on Notes called for redemption ceases to accrue on and after the Redemption Date;

(f) the paragraph or subparagraph of the Notes and/or Section of this Indenture pursuant to which the Notes called for redemption are being redeemed; and

(g) the CUSIP and ISIN number, if any, printed on the Notes being redeemed and that no representation is made as to the correctness or accuracy of any such CUSIP and ISIN number that is listed in such notice or printed on the Notes.

At the Issuer's request, the Trustee shall give the notice of redemption in the Issuer's name and at its expense; provided that the Issuer shall have delivered to the Trustee, at least five (5) Business Days before notice of redemption is required to be mailed or caused to be mailed to Holders pursuant to this Section 3.03 (unless a shorter notice shall be agreed to by the Trustee), an Officer's Certificate of the Issuer requesting that the Trustee give such notice (in which case the Issuer shall provide to the Trustee the complete form of such notice in the name and at the expense of the Issuer) and setting forth the information to be stated in such notice as provided in the preceding paragraph.

The Issuer may provide in the notice of redemption that payment of the redemption price and performance of the Issuer's obligations with respect to such redemption or purchase may be performed by another Person.

SECTION 3.04. Effect of Notice of Redemption. Once notice of redemption is mailed in accordance with Section 3.03 hereof, Notes called for redemption become irrevocably due and payable on the Redemption Date at the redemption price. The notice, if mailed in a manner herein provided, shall be conclusively presumed to have been given, whether or not the Holder receives such notice. In any case, failure to give such notice by mail or any defect in the notice to the Holder of any Note designated for redemption in whole or in part shall not affect the validity of the proceedings for the redemption of any other Note. Subject to Section 3.05 hereof, on and after the Redemption Date, interest ceases to accrue on Notes or portions of Notes called for redemption.

SECTION 3.05. Deposit of Redemption Price.

(a) Prior to 11:00 a.m. (New York City time) on the Redemption Date, the Issuer shall deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption price of and accrued and unpaid interest on all Notes to be redeemed on that Redemption Date. The Trustee or the Paying Agent shall promptly, and in any event within two (2) Business Days after the Redemption Date, return to the Issuer any money deposited with the Trustee or the Paying Agent by the Issuer in excess of the amounts necessary to pay the redemption price of, and accrued and unpaid interest on, all Notes to be redeemed.

(b) If the Issuer complies with the provisions of the preceding paragraph (a), on and after the Redemption Date, interest shall cease to accrue on the applicable series of Notes or the portions of Notes called for redemption, whether or not such Notes are presented for payment. If a Note is redeemed on or after a Record Date but on or prior to the related Interest Payment Date, then any accrued and unpaid interest to the Redemption Date shall be paid to the Person in whose name such Note was registered at the close of business on such Record Date. If any Note called for redemption shall not be so paid upon surrender for redemption because of the failure of the Issuer to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the Redemption Date until such principal is paid, and to the extent lawful on any interest accrued to the Redemption Date not paid on such unpaid principal, in each case at the rate provided in the Notes and in Section 5.01 hereof.

SECTION 3.06. Notes Redeemed in Part. Upon surrender of a Note that is redeemed in part, the Issuer shall issue and the Trustee shall authenticate for the Holder at the expense of the Issuer a new Note equal in principal amount to the unredeemed portion of the Note surrendered representing the same indebtedness to the extent not redeemed; provided that each new Note will be in a whole dollar ($1.00) principal amount. It is understood that, notwithstanding anything in this Indenture to the contrary, only an Authentication Order and not an Opinion of Counsel or Officer's Certificate of the Issuer is required for the Trustee to authenticate such new Note.

SECTION 3.07. Optional Redemption. At any time the Notes may be redeemed or purchased (by the Issuer or any other Person designated by the Issuer), in whole or in part, at a redemption price equal to 100% of the principal amount of Notes redeemed (the "Redemption Date") and, without duplication, accrued and unpaid interest to the Redemption Date, subject to the rights of Holders on the relevant Record Date to receive interest due on the relevant Interest Payment Date. Any redemption pursuant to this Section 3.07 shall be made pursuant to the provisions of Sections 3.01 through 3.06 hereof.

SECTION 3.08. Mandatory Redemption. The Issuer shall not be required to make any mandatory redemption or sinking fund payments with respect to the Notes (other than pursuant to Section 4.02).

ARTICLE IV

ESTABLISHMENT OF FUNDS AND APPLICATION AND INVESTMENT OF MONIES THEREIN

SECTION 4.01. Maintenance of Collateral Account. The Issuer shall maintain the Collateral Account at all times.

SECTION 4.02. Deposit of Runoff Proceeds and Application Thereof.

(a) Issuer shall, and shall cause the Owner to, deposit all distributions, dividends or other receipts in respect of Runoff Proceeds on the date paid to the Issuer ("Runoff Proceeds Distributions") directly into the Collateral Account. If Issuer shall nevertheless receive any Runoff Proceeds Distributions other than by deposit directly into the Collateral Account, it shall cause all such Runoff Proceeds Distributions to be deposited into the Collateral Account on the same Business Day on which they are received. Runoff Proceeds Distributions shall not be deposited in any deposit or securities account other than the Collateral Account, and all such Runoff Proceeds Distributions, while not held in the Collateral Account shall be held by the Issuer in trust for the Collateral Agent and shall not be commingled with any other assets of the Issuer.

(b) Subject to Section 7.14, on each Interest Payment Date, the Issuer shall direct the Collateral Agent to apply all amounts on deposit in the Collateral Account and any other Runoff Proceeds Distributions in the following order (each such date of application, a "Runoff Payment Date"):

(i) FIRST: To the pro rata payment of any compensation, fees and expenses, if any, due to the Trustee, the Second Lien Trustee and the Collateral Agent on such Runoff Payment Date for any services rendered under the Indenture, the Second Lien Indenture or the Security Documents.

(ii) SECOND: To the payment to the Issuer of an amount equal to the Issuer Incremental Amount accrued, if any, since the immediately preceding Interest Payment Date on the Issuer Priority Amount.

(iii) THIRD: To the payment to the Issuer of an amount equal to any unpaid Issuer Priority Amount.

(iv) FOURTH: To the Paying Agent for payment to the Holders of any accrued and unpaid interest, if any, with respect to the Notes; provided, however, that if on any Runoff Payment Date the Runoff Proceeds Distributions are not sufficient for such purposes, then any ac-

crued and unpaid interest, if any, shall be paid as PIK Interest or as additional principal in accordance with the terms of the Notes.

(v) FIFTH: To the Paying Agent for payment to the Holders of any unpaid principal and other Notes Obligations, if any, with respect to the Notes.

After the payments required by paragraphs FIRST, SECOND, THIRD, FOURTH and FIFTH above have been made, the balance on deposit in the Collateral Account shall be paid as provided in Section 2.4(a) of the Intercreditor Agreement.

(c) Any Issuer Incremental Amount not paid with respect to the Issuer Priority Amount or the Issuer Secondary Amount on any Interest Payment Date, shall be added to the then outstanding Issuer Priority Amount or Issuer Secondary Amount, as applicable.

SECTION 4.03. Investment of Funds. All moneys in the Collateral Account shall be invested at the written direction of an Officer of the Issuer in cash and Cash Equivalents. On each Interest Payment Date on which any Cash Equivalents are held in or credited to the Collateral Account, the Collateral Agent shall sell or otherwise convert such Cash Equivalents to cash in order to make the payments provided above.

ARTICLE V

COVENANTS

SECTION 5.01. Payment of Notes. The Issuer shall pay or cause to be paid the principal of and interest on the Notes on the dates and in the manner provided in the Notes (in the case of the payment of principal and interest in cash, only to the extent funds are available therefor) as provided for in paragraphs FOURTH and FIFTH of Section 4.02(b) herein. Principal and interest shall be considered paid on the date due if the Paying Agent holds as of 11:00 a.m. Eastern Time on the due date money deposited by the Issuer or transferred from the Collateral Account in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest then due. PIK Interest shall be considered paid on the date due if the Trustee is directed on or prior to such date to issue PIK Notes or increase the principal amount of the applicable Notes, in each case in an amount equal to the amount of the applicable PIK Interest.

The Issuer shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law whether or not allowed) on, (i) overdue principal at the rate that is 2% higher than the then applicable interest rate on the Notes to the extent lawful, and (ii) overdue installments of interest (without regard to any applicable grace period) at the rate then applicable to the Notes to the extent lawful, provided, however that with respect to clauses (i) and (ii) above, payments of interest shall only be made in cash to the extent moneys are in or should have been deposited in the Collateral Account in accordance with Article IV or are available to be applied in accordance with Section 7.14 herein, and such payment of interest shall otherwise be paid in PIK Interest.

SECTION 5.02. Deposit of Runoff Proceeds Distributions. (a) So long as the Owner shall have accumulated Runoff Proceeds at such time, the Issuer shall cause the Owner to use commercially reasonable efforts to obtain the appropriate regulatory approval on or before the ninetieth (90th) day following the end of each fiscal year (or more frequently as the Issuer may in good faith determine to be commercially reasonable), of a dividend or distribution of the maximum amount of undistributed Runoff Proceeds that could reasonably be expected to be approved after consulting with the Owner's Hawaiian regulatory advisers and counsel, and within three (3) Business Days of the receipt of such approval, to pay to the Issuer

such dividend or distribution and deposit such dividend or distribution on the date paid directly into the Collateral Account.

(b) On the Issue Date, the Issuer will irrevocably instruct and authorize WMMRC in writing (which instruction shall be applicable to the protected cell following an Insurance Book Closing) to deposit all Runoff Proceeds Distributions into the Collateral Account.

SECTION 5.03. Liens. (a) The Issuer will not, and will cause the Owner not to, directly or indirectly, create, incur, assume or suffer to exist any Lien of any kind (except Permitted Liens) on the Collateral, the equity interests issued by the Owner, any interests of the Owner in any of the Trusts or assets thereof, Runoff Proceeds Distributions or any Runoff Proceeds, or any proceeds of any of the foregoing.

(b) The Issuer will, and will cause WMMRC to, use commercially reasonable efforts to obtain approval from the applicable regulatory authorities to: (i) effect, as soon as reasonably practicable, the Insurance Book Closing and (ii) grant a first priority perfected security interest (subject to whatever limitations or conditions any such authority may impose) under the Security Documents in the equity issued by the Owner (including, upon the Insurance Book Closing, the protected cell to which the Trusts and their assets are transferred) and, after the Insurance Book Closing, the excess assets of the Owner and the Trusts. As soon as reasonably practicable following receipt of the necessary regulatory approvals, the Issuer will, and will cause WMMRC, the Owner and the Trusts, as applicable, to, consummate the Insurance Book Closing and grant such security interests, pursuant to the Security Agreement or a separate Security Document, which shall be in a form and with terms substantially similar to the Security Agreement, which for clarification purposes, may occur at different times depending on the timing of the receipt of such necessary regulatory approvals.

SECTION 5.04. Maintenance of Office or Agency. The Issuer shall maintain the offices or agencies (which may be an office of the Trustee or an affiliate of the Trustee, Registrar or co-registrar) in the Borough of Manhattan, The City of New York, as required under Section 2.03 where Notes may be surrendered for registration of transfer or for exchange and where notices and demands to or upon the Issuer in respect of the Notes and this Indenture may be served. The Issuer shall give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Issuer shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.

The Issuer may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; provided that no such designation or rescission shall in any manner relieve the Issuer of its obligation to maintain such offices or agencies as required by Section 2.03 for such purposes. The Issuer shall give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

The Issuer hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Issuer in accordance with Section 2.03 hereof.

SECTION 5.05. Reports and Other Information. The Issuer shall, and shall cause the Owner to, provide to the Holders and to the Trustee (a) an annual audited balance sheet and income statement of the Issuer and the Owner within 90 days following the end of each fiscal year and (b) monthly unaudited balance sheets and income statements of the Owner and each of the Trusts and the account statement of each segregated account into which any Runoff Proceeds are deposited within 45 days fol-

lowing the end of each month. The Issuer shall, and shall cause the Owner to, provide to the Holders and to the Trustee a monthly statement of the Collateral Account, including the amount and nature of any of its investments and any gain or loss associated therewith, within 30 days following the end of each month.

SECTION 5.06. Compliance Certificate. So long as any of the Notes are outstanding, the Issuer will deliver to the Trustee, within 5 Business Days after any Officer becomes aware of any Default or Event of Default, an Officers' Certificate specifying such Default or Event of Default and what action the Issuer is taking or propose to take with respect thereto. The Issuer shall furnish to the Trustee not less than annually, an Officers' Certificate as to his or her knowledge of the Issuer's compliance with all conditions and covenants under the Indenture.

SECTION 5.07. Limitation on Business Activities. The Issuer shall cause the Owner (i) to engage in no activities, other than administering the Trusts, collecting premiums and depositing the Runoff Proceeds Distributions into the Collateral Account and activities incidental thereto, (ii) to not originate any new insurance policies, and (iii) to not create, incur, issue, assume, guarantee or suffer to exist any indebtedness. The Issuer shall not permit the Owner to invest, or allow to be invested, any of the assets of the Trusts except in accordance with the applicable trust documents and substantially in accordance with past practices.

SECTION 5.08. Prohibition on Commingling. The Issuer shall cause the Owner to deposit all Runoff Proceeds released to it from the Trusts into a segregated account, which account shall consist solely of such Runoff Proceeds and proceeds thereof or interest thereon, and to hold such amounts in the segregated account until such time as they are distributed as Runoff Proceeds Distributions as provided for in Article IV hereof and will invest the same only in cash and Cash Equivalents. The Issuer shall cause the Owner to not deposit such Runoff Proceeds and other amounts in any deposit or securities account other than the segregated account referred to in the preceding sentence, and all such amounts shall be held by the Owner in trust for distribution as provided for in Article IV hereof and shall not be commingled with any other assets of the Owner or the Issuer.

SECTION 5.09. Stay, Extension and Usury Laws. The Issuer covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Indenture; and the Issuer (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenant that it shall not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law has been enacted.

SECTION 5.10. Corporate Existence. Except as permitted by Article VI or required by 5.03(b), the Issuer shall do or cause to be done all things necessary (i) to preserve and keep in full force and effect its corporate existence, and the corporate, partnership or other existence of the Owner in accordance with the respective organizational documents of the Issuer or the Owner (which, in the case of the Owner, will not be amended except as necessary to comply with regulatory requirements, effect the Insurance Book Closing and to maintain the ability to pay dividends), (ii) to maintain its direct ownership and voting control over 100% of the equity issued by the Owner (iii) to preserve and keep in full force and effect the rights (charter and statutory), licenses and franchises of the Issuer and the Owner; provided that the Issuer shall not be required to preserve any such right, license or franchise described in this clause (iii) if the preservation thereof is no longer necessary for the administration of the Trusts or collection of the Runoff Proceeds and that the loss thereof is not adverse in any material respect to the Holders of the Notes, taken as a whole, and (iv) to not consolidate or merge the Owner with or into another Person.

SECTION 5.11. Security Documents. The Issuer will and will cause the Owner to comply with the terms of each Security Document to which it is a party.

SECTION 5.12. Reporting of Debt for Tax Purposes. The Issuer shall treat the Runoff Notes as debt for federal income tax purposes, and shall use commercially reasonable efforts to defend such treatment in connections with any examination or subsequent proceedings.

SECTION 5.13. Prohibition on Sale of Interests in Trusts. Except pursuant to an Insurance Book Closing and required by this Indenture, the Issuer will cause the Owner not to, directly or indirectly, (a) sell, lease, transfer or otherwise dispose of any of its interest in any of the Trusts, (b) permit any Trust to sell, lease, transfer or otherwise dispose of any of its assets other than in the ordinary course of administering and managing the assets of the Trust in accordance with the trust documents and investment policies of the Owner or (c) enter into any contract, agreement or understanding to effectuate (a) or (b) above.

ARTICLE VI

SUCCESSORS

SECTION 6.01. Merger, Consolidation or Sale of All or Substantially All Assets.

The Issuer shall not, directly or indirectly, consolidate or merge with or into or wind up into (whether or not the Issuer is the surviving corporation), and shall not sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of the properties or assets of the Issuer, in one or more related transactions, to any Person unless:

(1) the Issuer is the surviving corporation or the Person formed by or surviving any such consolidation or merger (if other than the Issuer) or the Person to whom such sale, assignment, transfer, lease, conveyance or other disposition will have been made, is a Person organized or existing under the laws of the United States, any state or territory thereof or the District of Columbia (such Person, as the case may be, being herein called the "Successor Company"); provided that in the case where the Successor Company is not a corporation, a co-obligor of the Notes is a corporation, organized or existing under any such laws;

(2) the Successor Company, if other than the Issuer, expressly assumes all the Notes Obligations pursuant to a supplemental indenture or other documents or instruments in form reasonably satisfactory to the Trustee (subject to the non-recourse provisions contained herein);

(3) at the time of such transaction, no Default exists and after giving effect to such transaction, no Default would exist;

(4) immediately after such transaction, WMMRC continues to be a direct or indirect wholly-owned subsidiary of the Successor Company; and

(5) the Issuer shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that such consolidation, merger or transfer and such supplemental indentures, if any, comply with this Indenture, the Notes and the Security Documents.

SECTION 6.02. Successor Corporation Substituted. Upon any consolidation or merger, or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the assets of the Issuer in accordance with Section 6.01(a) hereof, the successor corporation formed by

such consolidation or into or with which the Issuer is merged or to which such sale, assignment, transfer, lease, conveyance or other disposition is made shall succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, lease, conveyance or other disposition, the provisions of this Indenture and the Security Documents referring to the Issuer shall refer instead to the successor corporation and not to the Issuer), and may exercise every right and power of the Issuer under this Indenture and the Security Documents with the same effect as if such successor Person had been named as the Issuer herein and therein; provided that the predecessor Issuer shall not be relieved from the obligation to pay the principal of and interest on the Notes except in the case of a sale, assignment, transfer, conveyance or other disposition of all of the Issuer's assets that meets the requirements of Section 6.01 hereof.

ARTICLE VII

DEFAULTS AND REMEDIES

SECTION 7.01. Events of Default. An "Event of Default" wherever used herein, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(1) default in payment when due and payable, at maturity, upon redemption, acceleration or otherwise, of principal of, or premium, if any, on the Notes;

(2) default for five Business Days or more in the payment when due of interest on or with respect to the Notes;

(3) the failure by the Issuer to perform, observe or comply with Sections 4.02, 5.02, 5.03, 5.06, 5.07, 5.08, 5.10 and 5.13 of this Indenture;

(4) failure by the Issuer for 30-days after receipt of written notice given by the Trustee or the Holders of not less than 25% in aggregate principal amount of the Notes to perform, observe or comply with any other covenant or agreement on its part under Article V of this Indenture (other than Sections 5.02, 5.03, 5.06, 5.07, 5.08, 5.10 and 5.13), provided that, it shall not constitute an Event of Default if, within 30-days after receipt of such written notice, corrective action is instituted and thereafter diligently pursued until the Default is cured;

(5) the Owner or the Issuer, pursuant to or within the meaning of any Bankruptcy Law:

(A) commences proceedings to be adjudicated bankrupt or insolvent;

(B) consents to the institution of bankruptcy or insolvency proceedings against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under applicable Bankruptcy law;

(C) consents to the appointment of a receiver, liquidator, assignee, trustee, sequestrator or other similar official of it or for all or a substantial part of its property; or

(D) makes a general assignment for the benefit of its creditors;

(6) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(A) is for relief against the Owner or the Issuer, in a proceeding in which the Owner or the Issuer, is to be adjudicated bankrupt or insolvent;

(B) appoints a receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Owner or the Issuer, or for all or a substantial part of the property of the Issuer or the Owner; or

(C) orders the liquidation of the Owner or the Issuer;

and the order or decree remains unstayed and in effect for 60 consecutive days;

(7) the Insurance Division of the Hawaii Department of Commerce and Consumer Affairs commences a dissolution, liquidation, insolvency or other similar proceeding against the Owner or the Issuer, or petitions a court of competent jurisdiction for an order of rehabilitation in accordance with applicable law.

SECTION 7.02. Acceleration.

(a) If any Event of Default (other than an Event of Default specified in clause (5), (6) or (7) of Section 7.01 hereof) occurs and is continuing under this Indenture, the Trustee by notice to the Issuer or the Holders of at least 25% in aggregate principal amount of the then total outstanding Notes by notice to the Issuer and the Trustee, in either case specifying in such notice the respective Event of Default and that such notice is a "notice of acceleration," may declare the principal, interest and premium, if any, on all the then outstanding Notes to be due and payable. Upon the effectiveness of such declaration, such principal and interest shall be due and payable immediately. Notwithstanding the foregoing, in the case of an Event of Default arising under clause (5), (6) or (7) of Section 7.01 hereof, all outstanding Notes shall be due and payable without further action or notice.

(b) The Holders of a majority in aggregate principal amount of the then outstanding Notes by written notice to the Trustee may on behalf of the Holders of all of the Notes rescind any acceleration with respect to the Notes and its consequences if such rescission would not conflict with any judgment or decree of a court of competent jurisdiction and if all existing Events of Default (except nonpayment of principal, interest or premium that has become due solely because of the acceleration) have been cured or waived.

SECTION 7.03. Other Remedies. If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal, premium, if any, and interest on the Notes or to enforce the performance of any provision of the Notes, this Indenture or the Security Documents, subject to Section 7.16 herein.

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder of a Note in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. All remedies are cumulative to the extent permitted by law.

SECTION 7.04. Specific Performance. The Issuer agrees that irreparable damage would occur and that the Trustee, the Collateral Agent and the Holders would not have any adequate rem-

edy at law in the event that any of the provisions of this Indenture were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the Trustee, Collateral Agent and the Holders shall be entitled to an injunction or injunctions to prevent breaches of this Indenture and to enforce specifically the terms and provisions of this Indenture, including but not limited to Sections 4.02, 5.01, 5.02, 5.03, 5.07, 5.08, 5.11 and 5.13, in any court of competent jurisdiction, without proof of actual damages (and each party hereby waives any requirement for the securing or posting of any bond or other security in connection therewith); specific performance being in addition to any other remedy to which the parties are entitled at law or in equity.

SECTION 7.05. Waiver of Past Defaults. Holders of not less than a majority in aggregate principal amount of the then outstanding Notes (unless a higher percentage would be required under Section 10.02 to consent to an amendment of the relevant provision, in which case such higher percentage shall apply) by notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default (other than a Default under Section 5.01). Holders of not less than all affected then outstanding Notes by notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default under Section 5.01 and its respective consequences hereunder. Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon. This Section 7.05 is subject to Section 7.02 hereof.

SECTION 7.06. Control by Majority. Holders of a majority in principal amount of the then total outstanding Notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. The Trustee, however, may refuse to follow any direction that conflicts with law or this Indenture or that the Trustee determines is unduly prejudicial to the rights of any other Holder of a Note or that would involve the Trustee in personal liability.

SECTION 7.07. Limitation on Suits. Subject to Sections 7.04 and 7.08 hereof, no Holder of a Note may pursue any remedy with respect to this Indenture or the Notes unless:

(a) such Holder has previously given the Trustee notice that an Event of Default has occurred and is continuing;

(b) Holders of at least 25% in aggregate principal amount of the total outstanding Notes have requested the Trustee to pursue the remedy;

(c) Holders of the Notes have offered the Trustee satisfactory security or indemnity against any loss, liability or expense;

(d) the Trustee has not complied with such request within 60 days after the receipt thereof and the offer of security or indemnity; and

(e) Holders of a majority in principal amount of the total outstanding Notes have not given the Trustee a direction inconsistent with such request within such 60-day period.

A Holder of a Note may not use this Indenture to prejudice the rights of another Holder of a Note or to obtain a preference or priority over another Holder of a Note.

SECTION 7.08. Rights of Holders of Notes to Receive Payment. Notwithstanding any other provision of this Indenture and subject to Section 7.16, the right of any Holder of a Note to receive payment of principal of, premium, if any, and interest on the Note, on or after the respective due dates

expressed in the Note, or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

SECTION 7.09. Collection Suit by Trustee. If an Event of Default specified in Section 7.01(1) or (2) hereof occurs and is continuing, the Trustee is authorized to recover judgment, subject to the limitation in Section 7.16 hereof, in its own name and as trustee of an express trust against the Issuer for the whole amount of principal of, premium, if any, and interest remaining unpaid on the Notes and interest on overdue principal and, to the extent lawful, interest and such further amount as shall be sufficient to cover the costs and expenses of collection, including the compensation and reasonable expenses, disbursements and advances of the Trustee, its agents and counsel.

SECTION 7.10. Restoration of Rights and Remedies. If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceedings, the Issuer, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding has been instituted.

SECTION 7.11. Rights and Remedies Cumulative. Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes in Section 2.07 hereof, and subject to Section 7.16 hereof, no right or remedy herein or in the Security Documents conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder or in the Security Documents, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

SECTION 7.12. Delay or Omission Not Waiver. No delay or omission of the Trustee or of any Holder of any Note to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

SECTION 7.13. Trustee May File Proofs of Claim. The Trustee is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the compensation and reasonable expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders of the Notes allowed in any judicial proceedings relative to the Issuer (or any other obligor upon the Notes), its creditors or its property and to collect, receive and distribute any money or other property payable or deliverable on any such claims and any custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the compensation and reasonable expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 8.07 hereof. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 8.07 hereof out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceed-

ing whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

SECTION 7.14. Priorities. If the Trustee or any Agent collects any money or property pursuant to the enforcement of this Article VII, it shall pay out the money in the order set forth in Section 2.4(b) of the Intercreditor Agreement, provided that, in the case of a Recourse Action, other than in an Insolvency Proceeding, each as defined in the Intercreditor Agreement, such money or property shall be paid out in the order set forth in Section 2.4(e) of the Intercreditor Agreement.

The Trustee may fix a record date and payment date for any payment to Holders of Notes pursuant to this Section 7.14.

SECTION 7.15. Undertaking for Costs. In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as a Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 7.15 does not apply to a suit by the Trustee, a suit by a Holder of a Note pursuant to Section 7.08 hereof, or a suit by Holders of more than 10% in aggregate principal amount of the then outstanding Notes.

SECTION 7.16. Limitation on the Issuer's Obligations. Notwithstanding any other provision of the Indenture, the Notes, the Intercreditor Agreement and the other Security Documents to the contrary, the Trustee, on behalf of itself and the Holders, agrees that it and the Holders shall not have or take recourse (other than actions for specific performance under Section 7.04) with respect to the Notes Documentation against the Issuer or its assets and property or against WMMRC or the Owner or their respective assets and property (other than assets that were required to be transferred to the protected cell pursuant to the Insurance Book Closing), except (i) to the Collateral Account, (ii) if the Issuer fails to comply with its obligations pursuant to Sections 4.02(a), 4.02(b), 5.02 or 5.08, to the assets of the Issuer in an amount equal to the aggregate amount of any Runoff Proceeds or Runoff Proceeds Distributions that were not deposited into the Collateral Account, (iii) to the equity interests in and the excess assets of the Owner and the Trusts to the extent a Lien has been granted therein pursuant to Section 5.03(b) herein in favor of the Collateral Agent and (iv) to the Owner or the Issuer for costs and expenses, including reasonable attorney's fees, related to the enforcement of Sections 4.01, 4.02, 4.03, 5.02, 5.03, 5.07, 5.08, 5.10 and 5.13 herein, if the Holders or the Trustee, as applicable, are the prevailing party in such enforcement action.

ARTICLE VIII

TRUSTEE

SECTION 8.01. Duties of Trustee.

(a) If an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by the Notes Documentation, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) Except during the continuance of an Event of Default:

(i) the duties of the Trustee shall be determined solely by the express provisions of this Indenture and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the form required in this Indenture. However, in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein).

(c) The Trustee may not be relieved from liabilities for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) this paragraph does not limit the effect of paragraph (b) of this Section 8.01;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved in a court of competent jurisdiction that the Trustee was negligent in ascertaining the pertinent facts; and

(iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 8.02, 8.04 or 8.05 hereof.

(d) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b) and (c) of this Section 8.01.

(e) The Trustee shall be under no obligation to exercise any of its rights or powers under this Indenture at the request or direction of any of the Holders of the Notes unless the Holders have offered to the Trustee indemnity or security satisfactory to the Trustee against any loss, liability or expense.

(f) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Issuer. Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

SECTION 8.02. Rights of Trustee.

(a) The Trustee may conclusively rely upon any document believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter stated in the document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Issuer and its Subsidiaries, personally or by agent or attorney at the sole cost of the Issuer and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation.

(b) Before the Trustee acts or refrains from acting, it may require an Officer's Certificate of the Issuer or an Opinion of Counsel or both. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such Officer's Certificate or Opinion of Counsel. The Trustee may consult with counsel of its selection and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(c) The Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any agent or attorney appointed with due care.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture.

(e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Issuer shall be sufficient if signed by an Officer of the Issuer.

(f) None of the provisions of this Indenture shall require the Trustee to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or indemnity satisfactory to it against such risk or liability is not assured to it.

(g) The Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a Default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Notes and this Indenture.

(h) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder.

(i) In no event shall the Trustee be responsible or liable for special, indirect, or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

SECTION 8.03. Individual Rights of Trustee. The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Issuer or any Affiliate of the Issuer with the same rights it would have if it were not Trustee. However, in the event that the Trustee acquires any conflicting interest it must eliminate such conflict within 90 days, apply to the SEC for permission to continue as trustee or resign. Any Agent may do the same with like rights and duties. The Trustee is also subject to Sections 8.10 and 8.11 hereof.

SECTION 8.04. Trustee's Disclaimer. The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Notes, it shall not be accountable for the Issuer's use of the proceeds from the Notes or any money paid to the Issuer or upon the Issuer's direction under any provision of this Indenture, it shall not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it shall not be responsible for any statement or recital herein or any statement in the Notes or any other document in connection with the sale of the Notes or pursuant to this Indenture other than its certificate of authentication. The recitals and

statements contained herein and in the Notes, except those contained in any Trustee's certificate of authentication, shall be taken as the recitals and statements of the Issuer, and the Trustee or any authenticating agent assumes no responsibility for their correctness.

SECTION 8.05. Notice of Defaults. If a Default occurs and is continuing and if it is known to the Trustee, the Trustee shall mail to Holders of Notes a notice of the Default within 90 days after it occurs. Except in the case of a Default relating to the payment of principal, premium, if any, or interest on any Note, the Trustee may withhold from the Holders notice of any continuing Default if and so long as the board of directors, the executive committee, or a trust committee of directors and/or Responsible Officers, in each case, of the Trustee in good faith determines that withholding the notice is in the interests of the Holders of the Notes. The Trustee shall not be deemed to know of any Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is such a Default is received by the Trustee in accordance with Section 13.02 hereof at the Corporate Trust Office of the Trustee and such notice references the Notes and this Indenture. During any period in which an Event of Default has occurred and is continuing, the Trustee shall be entitled to have all Agents and Collateral Agents act at its direction.

SECTION 8.06. Reports by Trustee to Holders of the Notes. Within 60 days after each April 15, beginning with the April 15 following the date of this Indenture, and for so long as Notes remain outstanding, the Trustee shall mail to the Holders of the Notes a brief report dated as of such reporting date that complies with Trust Indenture Act Section 313(a) (but if no event described in Trust Indenture Act Section 313(a) has occurred within the twelve months preceding the reporting date, no report need be transmitted). The Trustee also shall comply with Trust Indenture Act Section 313(b)(1) and Section 313(b)(2) (to the extent applicable). The Trustee shall also transmit by mail all reports as required by Trust Indenture Act Section 313(c).

A copy of each report at the time of its mailing to the Holders of Notes shall be mailed to the Issuer and filed with each stock exchange on which the Notes are listed and the SEC in accordance with Trust Indenture Act Section 313(d). The Issuer shall promptly notify the Trustee when the Notes are listed on any stock exchange.

SECTION 8.07. Compensation and Indemnity. The Issuer shall pay to the Trustee from time to time such compensation for its acceptance of this Indenture and services hereunder as the parties shall agree in writing from time to time. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Issuer shall reimburse the Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses shall include the compensation and reasonable disbursements and expenses of the Trustee's agents and counsel.

The Issuer shall indemnify the Trustee and its officers, directors, employees, agents and any predecessor trustee (in its capacity as trustee) and its officers, directors, employees and agents for, and hold the Trustee harmless against, any and all loss, damage, claims, liability or expense (including reasonable attorneys' fees) incurred by it in connection with the acceptance or administration of this trust and the performance of its duties hereunder (including the costs and expenses of enforcing this Indenture against the Issuer (including this Section 8.07) or defending itself against any claim whether asserted by any Holder or the Issuer, or liability in connection with the acceptance, exercise or performance of any of its powers or duties hereunder). The Trustee shall notify the Issuer promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Issuer shall not relieve the Issuer of its obligations hereunder except to the extent the Issuer has been materially prejudiced thereby. The Issuer shall defend the claim and the Trustee may have separate counsel and the Issuer shall pay the fees and expenses

of such counsel. The Issuer need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld. The Issuer need not reimburse any expense or indemnify against any loss, liability or expense incurred by the Trustee through the Trustee's own willful misconduct or negligence.

The obligations of the Issuer under this Section 8.07 shall survive the satisfaction and discharge of this Indenture or the earlier resignation or removal of the Trustee.

To secure the payment obligations of the Issuer in this Section 8.07, the Trustee shall have a Lien prior to the Notes on all money or property held or collected by the Trustee. Such Lien shall survive the satisfaction and discharge of this Indenture.

When the Trustee incurs expenses or renders services after an Event of Default specified in Section 7.01(5), (6) or (7) hereof occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

SECTION 8.08. Replacement of Trustee. A resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 8.08. The Trustee may resign in writing at any time and be discharged from the trust hereby created by so notifying the Issuer. The Holders of a majority in principal amount of the then outstanding Notes may remove the Trustee by so notifying the Trustee and the Issuer in writing. The Issuer may remove the Trustee if:

(a) the Trustee fails to comply with Section 8.10 hereof or Section 310 of the Trust Indenture Act;

(b) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;

(c) a custodian or public officer takes charge of the Trustee or its property; or

(d) the Trustee becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Issuer shall promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in principal amount of the then outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Issuer.

If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee (at the Issuer's expense), the Issuer or the Holders of at least 10% in aggregate principal amount of the then outstanding Notes may petition any court of competent jurisdiction for the appointment of a successor Trustee.

If the Trustee, after written request by any Holder who has been a Holder for at least six months, fails to comply with Section 8.10 hereof, such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Issuer. Thereupon, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this

Indenture. The successor Trustee shall mail a notice of its succession to Holders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee; provided all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 8.07 hereof. Notwithstanding replacement of the Trustee pursuant to this Section 8.08, the Issuer's obligations under Section 8.07 hereof shall continue for the benefit of the retiring Trustee.

SECTION 8.09. Successor Trustee by Merger, etc. If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act shall be the successor Trustee.

SECTION 8.10. Eligibility; Disqualification. There shall at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has, together with its parent, a combined capital and surplus of at least $50,000,000 as set forth in its most recent published annual report of condition.

This Indenture shall always have a Trustee who satisfies the requirements of Trust Indenture Act Sections 310(a)(1), (2) and (5). The Trustee is subject to Trust Indenture Act Section 310(b).

SECTION 8.11. Preferential Collection of Claims Against Issuer. The Trustee is subject to Trust Indenture Act Section 311(a), excluding any creditor relationship listed in Trust Indenture Act Section 311(b). A Trustee who has resigned or been removed shall be subject to Trust Indenture Act Section 311(a) to the extent indicated therein.

ARTICLE IX

LEGAL DEFEASANCE AND COVENANT DEFEASANCE

SECTION 9.01. Option to Effect Legal Defeasance or Covenant Defeasance. The Issuer may, at its option and at any time, elect to have either Section 9.02 or 9.03 hereof applied to all outstanding Notes upon compliance with the conditions set forth below in this Article IX.

SECTION 9.02. Legal Defeasance and Discharge. Upon the Issuer's exercise under Section 9.01 hereof of the option applicable to this Section 9.02, the Issuer shall, subject to the satisfaction of the conditions set forth in Section 9.04 hereof, be deemed to have been discharged from their Obligations with respect to all outstanding Notes (including their Obligations under the Security Documents with respect to the Notes Obligations) on the date the conditions set forth below are satisfied ("Legal Defeasance"). For this purpose, Legal Defeasance means that the Issuer shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes, which shall thereafter be deemed to be "outstanding" only for the purposes of Section 9.05 hereof and the other Sections of this Indenture referred to in (a) and (b) below, and to have satisfied all its other Obligations under such Notes and this Indenture (and the Trustee, on demand of and at the expense of the Issuer, shall execute proper instruments acknowledging the same), except for the following provisions which shall survive until otherwise terminated or discharged hereunder:

(a) the rights of Holders of Notes to receive payments in respect of the principal of, premium, if any, and interest on the Notes when such payments are due solely out of the trust created pursuant to this Indenture referred to in Section 9.04 hereof;

(b) the Issuer's obligations with respect to Notes concerning issuing temporary Notes, registration of such Notes, mutilated, destroyed, lost or stolen Notes and the maintenance of an office or agency for payment and money for security payments held in trust;

(c) the rights, powers, trusts, duties and immunities of the Trustee, and the Issuer's obligations in connection therewith; and

(d) this Section 9.02.

If the Issuer exercises under Section 9.01 the option applicable to this Section 9.02, subject to satisfaction of the conditions set forth in Section 9.04 hereof, payment of the Notes may not be accelerated because of an Event of Default under clauses (3), (4), (5), (6) and (7) of Section 7.01. Subject to compliance with this Article IX, the Issuer may exercise its option under this Section 9.02 notwithstanding the prior exercise of its option under Section 9.03 hereof.

SECTION 9.03. Covenant Defeasance. Upon the Issuer's exercise under Section 9.01 hereof of the option applicable to this Section 9.03, the Issuer shall, subject to the satisfaction of the conditions set forth in Section 9.04 hereof, be released from their obligations under the covenants contained in Sections 5.03, 5.05, 5.06, 5.07, 5.09, 5.10 and 5.13 and from the applicability of clauses (3) and (4) of Section 6.01 hereof with respect to the outstanding Notes on and after the date the conditions set forth in Section 9.04 hereof are satisfied ("Covenant Defeasance"), and the Notes shall thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Notes shall not be deemed outstanding for accounting purposes). For this purpose, Covenant Defeasance means that, with respect to the outstanding Notes, the Issuer may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under Section 7.01 hereof, but, except as specified above, the remainder of this Indenture and such Notes shall be unaffected thereby. In addition, upon the Issuer's exercise under Section 9.01 hereof of the option applicable to this Section 9.03 hereof, subject to the satisfaction of the conditions set forth in Section 9.04 hereof, Sections 7.01(3) (solely with respect to the covenants that are released upon a Covenant Defeasance), 7.01(5), 7.01(6) and 7.01(7) hereof shall not constitute Events of Default.

SECTION 9.04. Conditions to Legal or Covenant Defeasance. The following shall be the conditions to the application of either Section 9.02 or 9.03 hereof to the outstanding Notes:

In order to exercise either Legal Defeasance or Covenant Defeasance with respect to the Notes:

(a) the Issuer must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders of the Notes, cash in U.S. dollars, Government Securities, or a combination thereof, in such amounts as will be sufficient, in the opinion of a nationally recognized firm of independent public accountants, to pay the principal amount of, premium, if any, and interest due on the Notes on the stated maturity date or on the Redemption Date, as the case may be, of such principal amount, premium, if any, or interest on such Notes and the Issuer must specify whether such Notes are being defeased to maturity or to a particular Redemption Date.

(b) in the case of Legal Defeasance, the Issuer shall have delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that, subject to customary assumptions and exclusions,

(i) the Issuer has received from, or there has been published by, the United States Internal Revenue Service a ruling, or

(ii) since the issuance of the Notes, there has been a change in the applicable U.S. federal income tax law,

in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, subject to customary assumptions and exclusions, the Holders of the Notes will not recognize income, gain or loss for U.S. federal income tax purposes, as applicable, as a result of such Legal Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(c) in the case of Covenant Defeasance, the Issuer shall have delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that, subject to customary assumptions and exclusions, the Holders of the Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Covenant Defeasance and will be subject to such tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(d) no Default (other than that resulting from borrowing funds to be applied to make such deposit and any similar and simultaneous deposit relating to other indebtedness, and in each case, the granting of Liens in connection therewith) shall have occurred and be continuing on the date of such deposit;

(e) the Issuer shall have delivered to the Trustee an Officer's Certificate stating that the deposit was not made by the Issuer with the intent of defeating, hindering, delaying or defrauding any creditors of the Issuer; and

(f) the Issuer shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel (which Opinion of Counsel may be subject to customary assumptions and exclusions) each stating that all conditions precedent provided for or relating to the Legal Defeasance or the Covenant Defeasance, as the case may be, have been complied with.

SECTION 9.05. Deposited Money and Government Securities to Be Held in Trust; Other Miscellaneous Provisions. Subject to Section 9.06 hereof, all money and Government Securities (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 9.05, the "Trustee") pursuant to Section 9.04 hereof in respect of the outstanding Notes shall be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal, premium and interest, but such money need not be segregated from other funds except to the extent required by law.

The Issuer shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or Government Securities deposited pursuant to Section 9.04 hereof or the principal and interest received in respect thereof other than any such tax, fee or other charge which

by law is for the account of the Holders of the outstanding Notes. Anything in this Article IX to the contrary notwithstanding, the Trustee shall deliver or pay to the Issuer from time to time upon the request of the Issuer any money or Government Securities held by it as provided in Section 9.04 hereof which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 9.04(a) hereof), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

SECTION 9.06. Repayment to Issuer. Subject to any applicable abandoned property law, any money deposited with the Trustee or any Paying Agent, or then held by the Issuer, in trust for the payment of the principal of, premium, if any, or interest on any Note and remaining unclaimed for two years after such principal, and premium, if any, or interest has become due and payable shall be paid to the Issuer on its request or (if then held by the Issuer) shall be discharged from such trust; and the Holder of such Note shall thereafter look only to the Issuer for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Issuer as trustee thereof, shall thereupon cease.

SECTION 9.07. Reinstatement. If the Trustee or Paying Agent is unable to apply any United States dollars or Government Securities in accordance with Section 9.02 or 9.03 hereof, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Issuer's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 9.02 or 9.03 hereof until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 9.02 or 9.03 hereof, as the case may be; provided that, if the Issuer makes any payment of principal of, premium, if any, or interest on any Note following the reinstatement of its obligations, the Issuer shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

ARTICLE X

AMENDMENT, SUPPLEMENT AND WAIVER

SECTION 10.01. Without Consent of Holders of Notes. Notwithstanding Section 10.02 hereof, the Issuer and the Trustee (or the Collateral Agent, as applicable) may amend or supplement this Indenture, the Notes, any Security Document or the Intercreditor Agreement without the consent of any Holder:

(a) to cure any ambiguity, omission, mistake, defect or inconsistency;

(b) to provide for uncertificated Notes of such series in addition to or in place of Definitive Notes;

(c) to comply with Section 6.01 hereof;

(d) to provide for the assumption of the Issuer's obligations to the Holders;

(e) to make any change that would provide any additional rights or benefits to the Holders or that does not adversely affect the legal rights under this Indenture, the Notes, the Security Documents or the Intercreditor Agreement of any such Holder;

(f) to add covenants for the benefit of the Holders or to surrender any right or power conferred upon the Issuer;

(g) to comply with requirements of the SEC in order to effect or maintain the qualification of this Indenture under the Trust Indenture Act;

(h) to evidence and provide for the acceptance and appointment under this Indenture of a successor Trustee hereunder pursuant to the requirements hereof;

(i) to make any amendment to the provisions of this Indenture relating to the transfer and legending of Notes as permitted by this Indenture, including, without limitation to facilitate the issuance and administration of the Notes; provided, however, that (i) compliance with this Indenture as so amended would not result in Notes being transferred in violation of the Securities Act or any applicable securities law and (ii) such amendment does not materially and adversely affect the rights of Holders to transfer Notes;

(j) to add or release Collateral from, or subordinate, the Lien of the Security Documents only as expressly set forth in this Indenture, the Security Documents or the Intercreditor Agreement; and

(k) to mortgage, pledge, hypothecate or grant any other Lien in favor of the Trustee or the Collateral Agent for the benefit of the Holders of the Notes, as additional security for the payment and performance of all or any portion of the Notes Obligations, on any property or assets, including any which are required to be mortgaged, pledged or hypothecated, or on which a Lien is required to be granted to or for the benefit of the Trustee or the Collateral Agent pursuant to this Indenture, any of the Security Documents or otherwise.

Upon the request of the Issuer accompanied by a resolution of its board of directors authorizing the execution of any such amended or supplemental indenture, and upon receipt by the Trustee of the documents described in Section 8.02 hereof, the Trustee shall join with the Issuer in the execution of any amended or supplemental indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall have the right, but not be obligated to, enter into such amended or supplemental indenture that affects its own rights, duties or immunities under this Indenture or otherwise.

SECTION 10.02. With Consent of Holders of Notes. Except as provided below in this Section 10.02, the Issuer and the Trustee (or the Collateral Agent, as applicable) may amend or supplement this Indenture, the Notes, the Intercreditor Agreement or any Security Documents with the consent of the Holders of at least a majority in principal amount of the Notes then outstanding voting as a single class (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes). Subject to Sections 7.04 and 7.08 hereof, any existing Default or Event of Default (other than a Default or Event of Default in the payment of the principal of, premium, if any, or interest on the Notes, except a payment default resulting from an acceleration that has been rescinded) or compliance with any provision of this Indenture, the Notes, the Intercreditor Agreement or any Security Documents may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes voting as a single class (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes). Section 2.08 hereof, Section 2.09 hereof and Section 2.14 hereof shall determine which Notes are considered to be "outstanding" for the purposes of this Section 10.02.

Upon the request of the Issuer accompanied by a resolution of its board of directors authorizing the execution of any such amended or supplemental indenture, and upon the filing with the

Trustee of evidence satisfactory to the Trustee of the consent of the Holders of Notes as aforesaid, and upon receipt by the Trustee of the documents described in Section 8.02 hereof, the Trustee shall join with the Issuer in the execution of such amended or supplemental indenture unless such amended or supplemental indenture directly affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such amended or supplemental indenture.

It shall not be necessary for the consent of the Holders of Notes under this Section 10.02 to approve the particular form of any proposed amendment or waiver, but it shall be sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under this Section 10.02 becomes effective, the Issuer shall mail to the Holders of Notes affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Issuer to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amended or supplemental indenture or waiver.

Without the consent of each affected Holder of Notes, an amendment or waiver under this Section 10.02 may not, with respect to any Notes held by a non-consenting Holder:

(a) reduce the principal amount of such Notes whose Holders must consent to an amendment, supplement or waiver;

(b) reduce the principal amount of or change the fixed final maturity of any such Note or alter or waive the provisions with respect to the redemption of such Note;

(c) reduce the rate of or change the time for payment of interest on any Note;

(d) waive a Default in the payment of principal of or premium, if any, or interest on the Notes (except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the Notes and a waiver of the payment default that resulted from such acceleration) or in respect of a covenant or provision contained in this Indenture which cannot be amended or modified without the consent of each Holder affected thereby;

(e) make any Note payable in money or a currency other than that stated therein;

(f) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of Holders to receive payments of principal of or premium, if any, or interest on the Notes;

(g) make any change in these amendment and waiver provisions;

(h) impair the right of any Holder to receive payment of principal of, or interest on such Holder's Notes on or after the due dates therefor or to institute suit for the enforcement of any payment on or with respect to such Holder's Notes;

(i) amend, supplement, waive or modify the provisions of this Indenture dealing with the Security Documents or application of Runoff Proceeds in any manner, in each case that would subordinate the Lien of the Collateral Agent to the Liens securing any other Obligations (other than as contemplated under clause (j) of Section 10.01) or otherwise release any material portion of the Collateral, in each case other than in accordance with this Indenture, the Security Documents and the Intercreditor Agreement; or

(j) to amend the definition of Runoff Proceeds, Runoff Proceeds Distribution and Section 4.02.

In addition, without the consent of the Holders of at least two-thirds in aggregate principal amount of Notes then outstanding, no amendment, supplement or waiver may modify Sections 5.02, 5.03, 5.07, 5.08, 5.10 and 5.13 of this Indenture.

SECTION 10.03. Compliance with Trust Indenture Act. Every amendment or supplement to this Indenture or the Notes shall be set forth in an amended or supplemental indenture that complies in all material respects with the Trust Indenture Act as then in effect.

SECTION 10.04. Revocation and Effect of Consents. Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Note is a continuing consent by the Holder of a Note and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, any such Holder of a Note or subsequent Holder of a Note may revoke the consent as to its Note if the Trustee receives written notice of revocation before the date the waiver, supplement or amendment becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder.

The Issuer may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to consent to any amendment, supplement, or waiver. If a record date is fixed, then, notwithstanding the preceding paragraph, those Persons who were Holders at such record date (or their duly designated proxies), and only such Persons, shall be entitled to consent to such amendment, supplement, or waiver or to revoke any consent previously given, whether or not such Persons continue to be Holders after such record date. No such consent shall be valid or effective for more than 120 days after such record date unless the consent of the requisite number of Holders has been obtained.

SECTION 10.05. Notation on or Exchange of Notes. The Trustee may but shall not be obligated to place an appropriate notation about an amendment, supplement or waiver on any Note thereafter authenticated. The Issuer in exchange for all Notes may but shall not be obligated to issue and the Trustee shall, upon receipt of an Authentication Order, authenticate new Notes that reflect the amendment, supplement or waiver.

Failure to make the appropriate notation or issue a new Note shall not affect the validity and effect of such amendment, supplement or waiver.

SECTION 10.06. Trustee to Sign Amendments, etc. The Trustee shall sign any amendment, supplement or waiver authorized pursuant to this Article X if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. The Issuer may not sign an amendment, supplement or waiver until the board of directors (or similar governing body) approves it. In executing any amendment, supplement or waiver, the Trustee shall be entitled to receive, and (subject to Section 8.01 hereof) shall be fully protected in relying upon, in addition to the documents required by Section 13.04 hereof, an Officer's Certificate and an Opinion of Counsel stating that the execution of such amended or supplemental indenture is authorized or permitted by this Indenture and that such amendment, supplement or waiver is the legal, valid and binding obligation of the Issuer, enforceable against them in accordance with its terms, subject to customary exceptions, and complies with the provisions hereof (including Section 10.03).

ARTICLE XI

SATISFACTION AND DISCHARGE

SECTION 11.01. Satisfaction and Discharge. This Indenture shall be discharged and shall cease to be of further effect as to all Notes, when either:

(a) all Notes heretofore authenticated and delivered, except lost, stolen or destroyed Notes which have been replaced or paid and Notes for whose payment money has heretofore been deposited in trust, have been delivered to the Trustee for cancellation; or

(b) (A) all Notes not heretofore delivered to the Trustee for cancellation have become due and payable by reason of the making of a notice of redemption or otherwise, will become due and payable within one year or are to be called for redemption and redeemed within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Issuer, and the Issuer has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders of the Notes, cash in U.S. dollars, Government Securities, or a combination thereof, in such amounts as will be sufficient without consideration of any reinvestment of interest to pay and discharge the entire indebtedness on the Notes not heretofore delivered to the Trustee for cancellation for principal, premium, if any, and accrued interest to the date of maturity or redemption;

(B) no Default (other than that resulting from borrowing funds to be applied to make such deposit and any similar and simultaneous deposit relating to other Indebtedness to the extent such Indebtedness is simultaneously being discharged or repaid and the granting of Liens in connection therewith) with respect to this Indenture or the Notes shall have occurred and be continuing on the date of such deposit or shall occur as a result of such deposit and such deposit will not result in a breach or violation of, or constitute a default under any other material agreement or instrument to which the Issuer is a party or by which the Issuer is bound;

(C) the Issuer has paid or caused to be paid all sums payable by it under this Indenture; and

(D) the Issuer has delivered irrevocable instructions to the Trustee to apply the deposited money toward the payment of the Notes at maturity or the Redemption Date, as the case may be.

In addition, the Issuer shall deliver an Officer's Certificate and an Opinion of Counsel to the Trustee stating that all conditions precedent to satisfaction and discharge have been satisfied.

Notwithstanding the satisfaction and discharge of this Indenture, if money shall have been deposited with the Trustee pursuant to subclause (A) of clause (b) of this Section 11.01, the provisions of Section 11.02 and Section 9.07 hereof shall survive.

SECTION 11.02. Application of Trust Money. Subject to the provisions of Section 9.07 hereof, all money deposited with the Trustee pursuant to Section 11.01 hereof shall be held in trust and applied by it, in accordance with the provisions of the Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Issuer acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal (and premium, if any) and interest for whose payment such money has been deposited with the Trustee; but such money need not be segregated from other funds except to the extent required by law.

If the Trustee or Paying Agent is unable to apply any money or Government Securities in accordance with Section 11.01 hereof by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Issuer's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 11.01 hereof; provided that if the Issuer has made any payment of principal of, premium, if any, or interest on any Notes because of the reinstatement of its obligations, the Issuer shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or Government Securities held by the Trustee or Paying Agent.

ARTICLE XII

SECURITY

SECTION 12.01. Security Documents. The payment of the principal of and interest (including without limitation, any PIK Interest) and premium, if any, on the Notes when due, whether at maturity, by acceleration, repurchase, redemption or otherwise and whether by the Issuer pursuant to the Notes, the payment of all other Notes Obligations and the performance of all other Notes Obligations are secured as provided in the Security Documents which the Issuer has entered into and will be secured by Security Documents hereafter delivered as required or permitted by this Indenture. The Issuer shall comply with all provisions and covenants, make all filings (including filings of continuation statements and amendments to Uniform Commercial Code financing statements that may be necessary to continue the effectiveness of such Uniform Commercial Code financing statements) and take all other actions required by the Security Documents or necessary to maintain (at the sole cost and expense of the Issuer) the security interest created by the Security Documents in the Collateral (other than with respect to any Collateral the security interest in which is not required to be perfected or maintained under the Security Documents) as a perfected security interest. The Issuer shall deliver an Opinion of Counsel to the Trustee within 30 calendar days following the end of each annual period beginning with the annual period beginning on [ ], to the effect that all actions required to maintain the Lien of the Security Documents with respect to items of Collateral that may be perfected solely by the filing of financing statements under the Uniform Commercial Code have been taken.

SECTION 12.02. Collateral Agent.

(a) The Collateral Agent shall have all the rights and protections provided in the Security Documents and the Intercreditor Agreement and shall have no responsibility to exercise any discretionary power or right provided in any Security Document except as expressly required pursuant to the Security Documents or the Intercreditor Agreement or to ensure the existence, genuineness, value or protection of any Collateral or to ensure the legality, enforceability, effectiveness or sufficiency of the Security Documents or the creation, perfection, priority, sufficiency or protection of any Lien or any defect or deficiency as to any such matters.

(b) The Trustee is authorized and directed to (i) enter into the Intercreditor Agreement, (ii) acknowledge the Collateral Agent as the Collateral Agent and to authorize the Collateral Agent (and the Holders hereby authorize the Collateral Agent) to enter into the Security Documents for the benefit of the Holders, (iii) bind the Holders on the terms as set forth in the Security Documents and the Intercreditor Agreement and (iv) perform and observe its obligations and exercise its rights (and the Holders hereby authorize the Collateral Agent to perform and observe its obligations and exercise its rights) under the Intercreditor Agreement and the Security Documents.

(c) Subject to Section 8.01, neither the Trustee nor the Collateral Agent nor any of their officers, directors, employees, attorneys or agents will be responsible or liable for the existence, genuineness, value or protection of any Collateral, for the legality, enforceability, effectiveness or sufficiency of the Security Documents, for the creation, perfection, priority, sufficiency or protection of any Lien or any defect or deficiency as to any such matters.

SECTION 12.03. Authorization of Actions to Be Taken.

(a) Each Holder of Notes, by its acceptance thereof, consents and agrees to the terms of each Security Document and the Intercreditor Agreement, as originally in effect and as amended, restated, amended and restated, renewed, modified, supplemented or replaced from time to time in accordance with its terms or the terms of this Indenture, authorizes and directs the Trustee to authorize the Collateral Agent to enter into the Security Documents for the benefit of the Holders, authorizes and empowers the Trustee and the Collateral Agent to enter into each of the Security Agreements and the Intercreditor Agreement and authorizes and empowers the Trustee and the Collateral Agent to bind the Holders of Notes pursuant to the terms of the Intercreditor Agreement and to perform their respective obligations and exercise their respective rights and powers thereunder.

(b) The Trustee is authorized and empowered to receive for the benefit of the Holders of Notes any funds collected or distributed under the Security Documents to which the Trustee is entitled pursuant to the terms of the Intercreditor Agreement and to make further distributions of such funds to the Holders of Notes according to the provisions of this Indenture and the Intercreditor Agreement.

(c) Subject to the Intercreditor Agreement, the Trustee is authorized and empowered to institute and maintain, or direct the Collateral Agent to institute and maintain, such suits and proceedings as it may deem expedient to protect or enforce the Liens of the Security Documents or to prevent any impairment of Collateral by any acts that may be unlawful or in violation of the Security Documents.

SECTION 12.04. Release of Collateral; Substitution.

(a) Liens granted pursuant to the Security Documents securing the Notes Obligations shall automatically terminate and/or be released in full all without delivery of any instrument or performance of any act by any party as of the date upon which (i) all the Notes Obligations and this Indenture (other than contingent or unliquidated obligations or liabilities not then due) have been paid in full in cash or immediately available funds or (ii) a Legal Defeasance or Covenant Defeasance under Article VIX or a discharge in accordance with Article XI has occurred.

Upon the receipt of an Officer's Certificate from the Issuer, as described in Section 12.04(b) below and any necessary or proper instruments of termination, satisfaction or release prepared by the Issuer, the Collateral Agent shall execute, deliver or acknowledge such instruments or releases to evidence the release of any Collateral permitted to be released pursuant to this Indenture or the Security Documents or the Intercreditor Agreement.

(b) Notwithstanding anything herein to the contrary, in connection with (x) any release of Collateral pursuant to Section 12.04(a) above, such Collateral may not be released from the Lien and security interest created by the Security Documents and (y) any release of Collateral pursuant to Section 12.04(a), the Collateral Agent shall not be required to execute, deliver or acknowledge any instruments of termination, satisfaction or release unless, in each case, an Officer's Certificate and Opinion of Counsel certifying that all conditions precedent, including, without limitation, this Section 12.04, have been met and stating under which of the circumstances set forth in Section 12.04(a) above the Collateral is being released have been delivered to the Collateral Agent on or prior to the date of such release or, in

the case of clause (y) above, the date on which the Collateral Agent executes any such instrument. The Trustee shall be entitled to receive and rely on Officer's Certificates and Opinions of Counsel delivered to the Collateral Agent under this Section 12.04(b).

(c) Notwithstanding anything to the contrary contained in the Notes Documentation or any Security Document upon the Insurance Book Closing, any Lien in the equity of WMMRC held by the Collateral Agent shall be deemed automatically released.

SECTION 12.05. Powers Exercisable by Receiver or Trustee. In case the Collateral shall be in the possession of a receiver or trustee, lawfully appointed, the powers conferred in this Article XII upon the Issuer with respect to the release, sale or other disposition of such property may be exercised by such receiver or trustee, and an instrument signed by such receiver or trustee shall be deemed the equivalent of any similar instrument of the Issuer or of any officer or officers thereof required by the provisions of this Article XII; and if the Trustee or the Collateral Agent shall be in the possession of the Collateral under any provision of this Indenture, then such powers may be exercised by the Trustee or the Collateral Agent, as the case may be.

SECTION 12.06. No Fiduciary Duties; Collateral. The Trustee shall have no duty as to any Collateral in its possession or control or in the possession or control of any agent or bailee or any income thereon or as to preservation of rights against prior parties or any other rights pertaining thereto and the Trustee shall not be responsible for filing any financing or continuation statements or recording any documents or instruments in any public office at any time or times or otherwise perfecting or maintaining the perfection of any security interest in the Collateral. The Trustee shall not be liable or responsible for any loss or diminution in the value of any of the Collateral, by reason of the act or omission of any carrier, forwarding agency or other agent or bailee selected by the Trustee in good faith.

SECTION 12.07. Intercreditor Agreement Controls. Upon the Trustee's entry into the Intercreditor Agreement, the Holders of the Notes and the Trustee will be subject to and bound by the provisions of the Intercreditor Agreement. Notwithstanding anything herein to the contrary, (i) the liens and security interests granted to the Collateral Agent pursuant to the Security Documents and all rights and obligations of the Trustee hereunder are expressly subject to the Intercreditor Agreement and (ii) the exercise of any right or remedy by the Trustee hereunder is subject to the limitations and provisions of the Intercreditor Agreement. Subject to Section 7.16 and except for Article VIII, in the event of any conflict or inconsistency between the terms of the Intercreditor Agreement and the terms of this Indenture, the terms of the Intercreditor Agreement shall govern.

ARTICLE XIII

MISCELLANEOUS

SECTION 13.01. Trust Indenture Act Controls. If any provision of this Indenture limits, qualifies or conflicts with the duties imposed by Trust Indenture Act Section 318(c), the imposed duties shall control.

SECTION 13.02. Notices. Any notice or communication by the Issuer or the Trustee to the others is duly given if in writing and delivered in person or mailed by first-class mail (registered or certified, return receipt requested), fax or overnight air courier guaranteeing next day delivery, to the others' address:

If to the Issuer:

Washington Mutual, Inc.
1201 Third Avenue, Suite 3000
Seattle, Washington 98101
Attention: General Counsel

Telephone No.: (206) 432-8731
Facsimile No.: (206) 432-8879
Email: chad.smith@wamuinc.net

with a copy to:

Weil Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153
Attention: Todd R. Chandler

Telephone No.: (212) 310-8000
Facsimile No.: (212) 310-8007
Email: todd.chandler@weil.com

If to the Trustee:

Wilmington Trust, National Association
Corporate Capital Markets
50 South Sixth Street, Suite 1290
Minneapolis, MN, 55402
Attention: Washington Mutual, Inc. Administrator

Facsimile No.: (612) 217-5651

The Issuer or the Trustee, by notice to the others, may designate additional or different addresses for subsequent notices or communications.

All notices and communications (other than those sent to Holders) shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; five calendar days after being deposited in the mail, postage prepaid, if mailed by first-class mail; when receipt acknowledged, if faxed; and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery; provided that any notice or communication delivered to the Trustee shall be deemed effective upon actual receipt thereof.

Any notice or communication to a Holder shall be mailed by first-class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the Note Register kept by the Registrar. Any notice or communication shall also be so mailed to any Person described in Trust Indenture Act Section 313(c), to the extent required by the Trust Indenture Act. Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders.

If a notice or communication is mailed in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it.

If the Issuer mails a notice or communication to Holders, it shall mail a copy to the Trustee and each Agent at the same time.

SECTION 13.03. Communication by Holders of Notes with Other Holders of Notes. Holders may communicate pursuant to Trust Indenture Act Section 312(b) with other Holders with respect to their rights under this Indenture or the Notes. The Issuer, the Trustee, the Registrar and anyone else shall have the protection of Trust Indenture Act Section 312(c).

SECTION 13.04. Certificate and Opinion as to Conditions Precedent.

(a) Upon any request or application by the Issuer to the Trustee to take any action under this Indenture, the Issuer shall furnish to the Trustee an Officer's Certificate of the Issuer in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 13.05 hereof) stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been satisfied; and

(b) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 13.05 hereof) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied.

SECTION 13.05. Statements Required in Certificate or Opinion. Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than a certificate provided pursuant to Section 5.06 hereof or Trust Indenture Act Section 314(a)(4)) shall comply with the provisions of Trust Indenture Act Section 314(e) and shall include:

(a) a statement that the Person making such certificate or opinion has read such covenant or condition;

(b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(c) a statement that, in the opinion of such Person, he or she has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with (and, in the case of an Opinion of Counsel, may be limited to reliance on an Officer's Certificate, certificates of public officials or reports or opinions of experts as to matters of fact); and

(d) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been complied with.

SECTION 13.06. Rules by Trustee and Agents. The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions.

SECTION 13.07. No Personal Liability of Directors, Officers, Employees and Stockholders. No past, present or future director, officer, employee, incorporator or stockholder of the Issuer or any of their parent companies shall have any liability for any obligations of the Issuer under the Notes or this Indenture or for any claim based on, in respect of, or by reason of such obligations or their creation.

Each Holder by accepting Notes waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

SECTION 13.08. Governing Law. THIS INDENTURE AND THE NOTES WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

SECTION 13.09. Waiver of Jury Trial. THE ISSUER AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTIONS CONTEMPLATED HEREBY.

SECTION 13.10. Force Majeure. In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations under this Indenture arising out of or caused by, directly or indirectly, forces beyond its reasonable control, including without limitation strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software or hardware) services.

SECTION 13.11. No Adverse Interpretation of Other Agreements. This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Issuer or its Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

SECTION 13.12. Successors. All agreements of the Issuer in this Indenture and the Notes shall bind its successors. All agreements of the Trustee in this Indenture shall bind its successors.

SECTION 13.13. Severability. In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

SECTION 13.14. Counterpart Originals. The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

SECTION 13.15. Table of Contents, Headings, etc. The Table of Contents, Cross-Reference Table and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

[Signatures on following page]

WASHINGTON MUTUAL, INC.

By:
Name:
Title:

Wilmington Trust, National Association
as Trustee

By:
Name:
Title:

EXHIBIT A

[Face of Note]

[Insert the Global Note Legend, if applicable]

CUSIP [ ]

13% Senior First Lien Note due 2030

No. ___ [$_____]

WASHINGTON MUTUAL, INC.

promises to pay, subject to the terms of the Indenture, to _____ or registered assigns, the principal sum [set forth on the Schedule of Exchanges of Interests in the Global Note attached hereto] [of _____ Dollars] ($_____) on [ ]

Interest Payment Dates: [ ]

Record Dates: [ ]

IN WITNESS HEREOF, the Issuer has caused this instrument to be duly executed.

Dated: [ ]

WASHINGTON MUTUAL, INC.

By:
Name:
Title:

This is one of the Notes referred to in the within-mentioned Indenture:

Dated: _____

[ ]
as Trustee

By:
Authorized Signatory

[Back of Note]

13% Senior First Lien Note due 2030

Capitalized terms used herein shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. Interest. Washington Mutual, Inc., a Washington corporation (the "Issuer"), promises to pay, subject to the terms of the Indenture, interest on the principal amount of this Note at a rate per annum set forth below from the Issue Date until paid in full. The Issuer will pay interest on this Note quarterly in arrears on [ ], [ ], [ ] and [ ] of each year, commencing on [ ], or if any such day is not a Business Day, on the next succeeding Business Day (each, an "Interest Payment Date"), and no interest shall accrue on such payment for the intervening period. The Issuer will make each interest payment to the Holder of record of this Note on the immediately preceding [ ], [ ], [ ] and [ ] (each, a "Record Date"). Interest on this Note will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from and including the Issue Date. The Notes will mature on [ ], 2030. The Issuer will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law whether or not allowed) on overdue principal at the rate that is 2% higher than the rate then applicable to this Note; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace periods) at the rate then applicable to this Note to the extent lawful. Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months.

To the extent there are sufficient Runoff Proceeds Distributions on any Interest Payment Date to pay interest on the Notes in accordance with Section 4.02 of the Indenture, interest on this Note shall be paid entirely in cash ("Cash Interest"); provided to the extent there are insufficient Runoff Proceeds Distributions to pay interest on the Notes in accordance with Section 4.02 of the Indenture, interest shall be payable on such Interest Payment Date in cash to the extent of funds available for payment of cash payments and any excess interest payable shall be paid by increasing the principal amount of this Note or by issuing PIK Notes in an amount equal to such excess. The Issuer must notify the Trustee at least five (5) Business Days prior to any Interest Payment Date whether Cash Interest and/or a PIK Payment will be paid on such Interest Payment Date to the Holders of the Notes. The Trustee shall promptly deliver a corresponding notice to the Holder of this Note. The Trustee will, at the request of the Issuer, authenticate and deliver such PIK Notes for original issuance to such Holder of this Note on the relevant record date, as shown by the records of the Note Register. Following an increase in the principal amount of this Note as a result of a PIK Payment, this Note will bear interest on such increased principal amount from and after the date of such PIK Payment. Any PIK Notes will be dated as of the applicable Interest Payment Date and will bear interest from and after such date. All PIK Notes issued pursuant to a PIK Payment will mature on [ ], 2030 and will be governed by, and subject to the terms, provisions and conditions of, the Indenture and shall have the same rights and benefits as the Notes issued on the Issue Date. Any PIK Notes will be issued with the description "PIK" on the face of such PIK Note.

Interest on this Note and any PIK Notes will accrue at the rate of 13% per annum.

2. Method of Payment. The Issuer or the Trustee will pay interest on this Note to the Person who is the registered Holder of this Note at the close of business on the Record Date (whether or not a Business Day) next preceding the Interest Payment Date, even if this Note is canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Indenture with respect to defaulted interest. Cash payment of interest may be made by check mailed to the Holders at their addresses set forth in the Register, provided that all cash payments of principal, premium,

if any, and interest on, this Note will be made by wire transfer to a U.S. dollar account maintained by the payee with a bank in the United States if such Holder elects payment by wire transfer by giving written notice to the Trustee or the Paying Agent to such effect designating such account no later than 30 days immediately preceding the relevant due date for payment (or such other date as the Trustee may accept in its discretion). Such payment shall be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

3. Paying Agent and Registrar. Initially, Wilmington Trust, National Association, the Trustee under the Indenture, will act as Paying Agent and Registrar. The Issuer may change any Paying Agent or Registrar without notice to the Holders.

4. Indenture. The Issuer issued the Notes under a Senior First Lien Notes Indenture, dated as of [ ] (the "Indenture"), among Washington Mutual, Inc. and the Trustee. This Note is one of a duly authorized issue of notes of the Issuer designated as its 13% Senior First Lien Notes due 2030. The Notes and any PIK Notes issued under the Indenture shall be treated as a single class of securities under the Indenture. The terms of the Notes include those stated in the Indenture and those incorporated by reference into the Indenture from the Trust Indenture Act of 1939, as amended (the "Trust Indenture Act"). The Notes are subject to all such terms, and Holders are referred to the Indenture and such Act for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. Upon the Trustee's entry into the Indenture, the Holders of the Notes and the Trustee will be bound by the terms of the Indenture.

5. Optional Redemption. At any time the Notes may be redeemed or purchased (by the Issuer or any other Person), in whole or in part, at a redemption price equal to 100% of the principal amount of Notes redeemed and, without duplication, accrued and unpaid interest, if any, to the date of redemption (the "Redemption Date"), subject to the rights of Holders of Notes on the relevant Record Date to receive interest due on the relevant Interest Payment Date. Any redemption pursuant to this paragraph 5 shall be made pursuant to the provisions of Sections 3.01 through 3.06 of the Indenture.

6. Notice of Redemption. Subject to Section 3.03 of the Indenture, notice of redemption will be mailed by first-class mail at least 30 days but not more than 60 days before the Redemption Date to each Holder whose Notes are to be redeemed at its registered address. Notes and portions of the Notes in whole dollar ($1.00) denominations may be redeemed. On and after the Redemption Date, interest ceases to accrue on this Note or portions thereof called for redemption.

8. Collateral and Intercreditor Agreement. These Notes are secured by a security interest in the Collateral pursuant to certain security documents. The Liens securing the Notes are subject to the terms of the Intercreditor Agreement.

9. Limitation on the Issuer's Obligations. Notwithstanding any other provision of the Indenture, the Intercreditor Agreement, the Notes and the Security Documents to the contrary, the Holder of this Note agrees that it shall not have or take recourse (other than actions for specific performance under Section 7.04 of the Indenture) with respect to the Notes Documentation against the Issuer or its assets and property, or against WMMRC or the Owner or their respective assets and property (other than assets that were required to be transferred to the protected cell pursuant to the Insurance Book Closing), except (i) to the Collateral Account, (ii) if the Issuer fails to comply with its obligations pursuant to Sections 4.02(a), 4.02(b), 5.02 or 5.08, to the assets of the Issuer in an amount equal to the aggregate amount of any Runoff Proceeds or Runoff Proceeds Distributions that were not deposited into the Collateral Account, (iii) to the equity interests in and the excess assets of the Owner and the Trusts to the extent

a Lien has been granted therein pursuant to Section 5.03(b) of the Indenture in favor of the Collateral Agent and (iv) to the Owner or the Issuer for costs and expenses, including reasonable attorney's fees, related to the enforcement of Sections 4.01, 4.02, 4.03, 5.02, 5.03, 5.07, 5.08, 5.10 and 5.13 of the Indenture, if the Holders or the Trustee, as applicable, are the prevailing party in such enforcement action.

10. Denominations, Transfer, Exchange. The Notes are in registered form without coupons in whole dollar ($1.00) denominations and integral multiples of $1.00 rounded up to the nearest whole dollar. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Issuer may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Issuer need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Issuer need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed.

11. Persons Deemed Owners. The registered Holder of a Note may be treated as its owner for all purposes.

12. Amendment, Supplement and Waiver. The Indenture, the Notes, the Security Documents and the Intercreditor Agreement may be amended or supplemented as provided in the Indenture.

13. Defaults and Remedies. The Events of Default relating to the Notes are defined in Section 7.01 of the Indenture. If any Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Notes may declare the principal, premium, if any, interest and any other monetary obligations on all the then outstanding Notes to be due and payable immediately. Notwithstanding the foregoing, in the case of an Event of Default arising from certain events of bankruptcy or insolvency, all outstanding Notes will become due and payable immediately without further action or notice. Holders may not enforce the Indenture or the Notes except as provided in the Indenture. Subject to certain limitations, Holders of a majority in aggregate principal amount of the then outstanding Notes may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders of the Notes notice of any continuing Default (except a Default relating to the payment of principal, premium, if any, or interest) if it determines that withholding notice is in their interest. The Holders of a majority in aggregate principal amount of the Notes then outstanding by notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default or and its consequences under the Indenture except a continuing Default in payment of the principal of, premium, if any, or interest on, any of the Notes held by a non-consenting Holder. The Issuer is required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and the Issuer is required within five (5) Business Days after becoming aware of any Default, to deliver to the Trustee a statement specifying such Default and what action the Issuer is taking or proposes to take with respect thereto.

14. Authentication. This Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose until authenticated by the manual signature of the Trustee.

15. GOVERNING LAW. THE LAWS OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THE INDENTURE AND THE NOTES.

16. CUSIP and ISIN Numbers. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Issuer has caused CUSIP and ISIN numbers to be printed on the Notes and the Trustee may use CUSIP and ISIN numbers in notices of redemp-

tion as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

The Issuer will furnish to any Holder upon written request and without charge a copy of the Indenture. Requests may be made to the Issuer at the following address:

Washington Mutual, Inc.
1201 Third Avenue
Seattle, Washington 98101
Attention: General Counsel

ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to:

(Insert assignee's legal name)

_____

(Insert assignee's soc. sec. or tax I.D. no.)

_____

_____

_____

_____

(Print or type assignee's name, address and zip code)

and irrevocably appoint
to transfer this Note on the books of the Issuer. The agent may substitute another to act for him.

Date: _____

Your Signature:

(Sign exactly as your name appears on the face of this Note)

Signature Guarantee*:

* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE*

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global or Definitive Note for an interest in this Global Note, or increased for a PIK Payment, have been made:

Date of Exchange/Transfer	**Amount of decrease in Principal Amount**	**Amount of increase in Principal Amount of this Global Note**	**Principal Amount of this Global Note following such decrease or increase**	**Signature of authorized officer of Trustee or Custodian**

* This schedule should be included only if the Note is issued in global form.

Exhibit G

Form of Senior Second Lien Notes Indenture

SENIOR SECOND LIEN NOTES INDENTURE

Dated as of [ ], 2012

by and between

WASHINGTON MUTUAL, INC.

and

Law Debenture Trust Company of New York

as Trustee

13% SENIOR SECOND LIEN NOTES DUE 2030

CROSS-REFERENCE TABLE*

Trust Indenture Act Section	Indenture Section
310(a)(1)	8.10
(a)(2)	8.10
(a)(3)	N.A.
(a)(4)	N.A.
(a)(5)	8.10
(b)	8.10
311(a)	8.11
(b)	8.11
312(a)	2.05
(b)	13.03
(c)	13.03
313(a)	8.06
(b)(1)	8.06
(b)(2)	8.06; 8.07
(c)	8.06; 13.02
(d)	8.06
314(a)	5.05; 5.06; 13.05
(b)	12.01
(c)(1)	13.04
(c)(2)	13.04
(c)(3)	N.A.
(d)	N.A.
(e)	13.05
(f)	N.A.
315(a)	8.01
(b)	8.05; 13.02
(c)	8.01
(d)	8.01
(e)	7.15
316(a)(1)(A)	7.06
(a)(1)(B)	7.05
(a)(2)	N.A.
(b)	10.02
(c)	2.12; 10.04
317(a)(1)	7.09
(a)(2)	7.13
(b)	2.04
318(a)	13.01
(b)	N.A.
(c)	13.01

N.A. means not applicable.

* This Cross-Reference Table is not part of this Indenture.

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SENIOR SECOND LIEN NOTES INDENTURE, dated as of [ ], 2012, between Washington Mutual, Inc., a Washington corporation ("Issuer"), and Law Debenture Trust Company of New York, as trustee (the "Trustee").

W I T N E S S E T H

WHEREAS, the Issuer has duly authorized the creation of an issue of $20,000,000 aggregate principal amount of 13% Senior Second Lien Notes due 2030 (together with any increases in the aggregate principal amount thereof, or any PIK Notes, the "Notes"); and

WHEREAS, the Issuer has duly authorized the execution and delivery of this Indenture.

NOW, THEREFORE, the Issuer and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders of the Notes.

ARTICLE I

DEFINITIONS AND INCORPORATION BY REFERENCE

SECTION 1.01. Definitions.

"Acquisition Credit Facility" means that financing agreement dated as of [ ], 2012, by and among the Issuer, the guarantors party thereto, the lenders party thereto and U.S. Bank National Association, as agent, including any guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, renewals, restatements, refundings or refinancings or replacements (whether upon or after termination or otherwise) thereof in whole or in part from time to time, including any agreement that replaces, refunds or refinances any part of the loans, notes, other credit facilities or commitments thereunder, including any such replacement, refunding or refinancing facility or indenture that increases the amount borrowable thereunder or alters the maturity thereof or adds or removes borrowers or guarantors, and whether with the same or another agent, lender or group of lenders.

"Affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlling," "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise.

"Agent" means any Registrar or Paying Agent.

"Applicable Procedures" means, with respect to any transfer or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depositary, Euroclear and Clearstream that apply to such transfer, redemption or exchange.

"Bankruptcy Law" means Title 11, U.S. Code or any similar federal law or Chapter 431, Article 15 of the Hawaii Code or any similar state law.

"Business Day" means each day which is not a Legal Holiday.

"Capital Stock" means:

(1) in the case of a corporation, corporate stock;

(2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;

(3) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and

(4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

"Cash Equivalents" means (a) marketable direct obligations issued or unconditionally guaranteed by the United States Government or issued by any agency thereof and backed by the full faith and credit of the United States, in each case, maturing within six months from the date of acquisition thereof, (b) commercial paper, maturing not more than 270 days after the date of issue rated P-1 by Moody's or A-1 by Standard & Poor's, (c) certificates of deposit maturing not more than 270 days after the date of issue, issued by commercial banking institutions and money market or demand deposit accounts maintained at commercial banking institutions, each of which is a member of the Federal Reserve System and has a combined capital and surplus and undivided profits of not less than $500,000,000 and a Thomson Bank Watch Rating of "BBB" or better, (d) money market accounts maintained with mutual funds having assets in excess of $2,500,000,000, and (e) marketable tax exempt securities rated A or higher by Moody's or A+ or higher by Standard & Poor's, in each case, maturing within six months from the date of acquisition thereof.

"Clearstream" means Clearstream Banking, Société Anonyme.

"Collateral" means all assets and property in which a security interest is granted to secure the Notes Obligations.

"Collateral Account" means a separate securities and/or deposit account established and maintained by the Issuer in which the Collateral Agent has a valid perfected first and second priority security interest and exclusive dominion and control in accordance with the terms of the Security Documents.

"Collateral Agent" means Wilmington Trust, National Association, in its capacity as collateral agent under the Security Documents, until a successor replaces it in accordance with the applicable provisions of the Intercreditor Agreement and thereafter means the successor serving thereunder.

"Control Agreement" means the Control Agreement, dated as of [ ], among the Issuer, Collateral Agent and [ ], as depository bank and/or securities intermediary, and any other agreement providing to the Collateral Agent "control" of the Collateral Account within the meaning of Articles 8 and 9 or the Uniform Commercial Code.

"Corporate Trust Office of the Trustee" shall be at the address of the Trustee specified in Section 13.02 hereof or such other address as to which the Trustee may give notice to the Holders and the Issuer.

"Credit Facility" means, with respect to the Issuer or any of its subsidiaries, one or more debt facilities, including the Acquisition Credit Facility, or other financing arrangements (including, with-

out limitation, commercial paper facilities or indentures) providing for revolving credit loans, term loans, letters of credit or other long-term indebtedness, including any notes, mortgages, guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, renewals, restatements, refundings or replacements (whether or not upon or after termination or otherwise) thereof and any indentures or credit facilities or commercial paper facilities that replace, refund or refinance any part of the loans, notes, other credit facilities or commitments thereunder, including any such replacement, refunding or refinancing facility or indenture that increases the amount permitted to be borrowed thereunder or alters the maturity thereof or adds subsidiaries as additional borrowers or guarantors thereunder and whether by the same or any other agent, lender or group of lenders.

"Custodian" means the Trustee, as custodian with respect to the Notes, each in global form, or any successor entity thereto.

"Default" means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

"Definitive Note" means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06 hereof, substantially in the form of Exhibit A hereto, except that such Note shall not bear the Global Note Legend and shall not have the "Schedule of Exchanges of Interests in the Global Note" attached thereto.

"Depositary" means, with respect to the Notes issuable or issued in whole or in part in global form, any Person specified in Section 2.03 hereof as the Depositary with respect to the Notes, and any and all successors thereto appointed as Depositary hereunder and having become such pursuant to the applicable provision of this Indenture.

"Euroclear" means Euroclear S.A./N.V., as operator of the Euroclear system.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder.

"First Lien Collateral" means all assets and property in which a security interest is granted to secure the First Lien Notes Obligations.

"First Lien Documentation" means the First Lien Notes, the First Lien Indenture and the First Lien Notes Security Documents.

"First Lien Indenture" means that certain Senior First Lien Notes Indenture, dated as of [ ], 2012, between the Issuer and the First Lien Trustee with respect to the First Lien Notes, as amended or supplemented from time to time.

"First Lien Notes" means the Issuer's 13% Senior First Lien Notes due 2030 issued pursuant to and in accordance with the First Lien Indenture.

"First Lien Notes Obligations" means Obligations in respect of the First Lien Indenture, the First Lien Notes and to the extent relating to the First Lien Indenture or the First Lien Notes, the First Lien Notes Security Documents, including for the avoidance of doubt, Obligations in respect of guarantees thereof.

"First Lien Notes Security Documents" means , collectively, the Intercreditor Agreement and any security agreements, control agreements and directions to pay relating to the First Lien Collateral executed and delivered and/or filed and recorded in appropriate jurisdictions to preserve and protect the Liens on the First Lien Collateral (including, without limitation, financing statements under the Uniform Commercial Code of the relevant states) related to the security interests granted by any of the foregoing documents and any other document or instrument evidencing, creating or providing for a Lien on any real or personal tangible or intangible property as security for any or all of the obligations under the First Lien Documentation.

"First Lien Trustee" means Wilmington Trust, National Association, as trustee under the First Lien Indenture, until a successor trustee replaces it in accordance with the applicable provisions of the First Lien Indenture, after which time such term shall mean the successor trustee serving thereunder.

"Global Note Legend" means the legend set forth in Sections 2.06(b) and 14.04 hereof, which is required to be placed on all Global Notes issued under this Indenture.

"Global Notes" means, individually and collectively, each of the Global Notes, substantially in the form of Exhibit A hereto, issued in accordance with Section 2.01 or 2.06 hereof.

"Government Securities" means securities that are:

(1) direct obligations of the United States of America for the timely payment of which its full faith and credit is pledged; or

(2) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the timely payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America,

which, in either case, are not callable or redeemable at the option of the issuer thereof, and shall also include a depository receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act), as custodian with respect to any such Government Securities or a specific payment of principal of or interest on any such Government Securities held by such custodian for the account of the holder of such depository receipt; provided that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of the Government Securities or the specific payment of principal of or interest on the Government Securities evidenced by such depository receipt.

"Governmental Authority" means any nation or government, any Federal, state, city, town, municipality, county, local or other political subdivision thereof or thereto and any department, commission, board, bureau, instrumentality, agency or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

"guarantee" means a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business), direct or indirect, in any manner (including letters of credit and reimbursement agreements in respect thereof), of all or any part of any indebtedness or other Obligations.

"Holder" means the Person in whose name a Note is registered on the Registrar's books.

"Indenture" means this Senior Second Lien Notes Indenture, as amended or supplemented from time to time.

"Insurance Book Closing" means the transfer by WMMRC of (i) all Runoff Proceeds held on the date of such transfer, (ii) the right to receive all future Runoff Proceeds and (iii) the Trusts and their assets along with all insurance liabilities associated therewith as of the date of transfer to a protected cell established and maintained pursuant to § 431:19-303 of Title 24 of the Hawaii Insurance Code in conformance with all applicable Requirements of Law, which complies with the following requirements: (w) the protected cell shall be organized as a direct wholly owned subsidiary of the Issuer; (x) the assets of the protected cell shall not be chargeable with liabilities arising out of any other business WMMRC may conduct; (y) the business plan establishing the protected cell shall restrict its business to the administration and management of the Trusts and the assets thereof along with the liabilities associated therewith, and the distribution of the Runoff Proceeds; and (z) the governing documents of the protected cell shall provide that no dividend or distribution may be made to any Person other than the Issuer as provided for in the Notes Documentation and the First Lien Documentation.

"Intercreditor Agreement" means the Intercreditor Agreement, dated as of [ ], among the Trustee, the First Lien Trustee and the Credit Agreement Agent (as defined therein), as amended, modified and supplemented from time to time.

"Interest Payment Date" has the meaning set forth in paragraph 1 of each Note.

"Issue Date" means [ ].

"Issuer" means Washington Mutual, Inc., a Washington corporation, and any of its successors.

"Issuer Incremental Amount" means an amount accruing on the outstanding Issuer Priority Amount or the Issuer Secondary Amount, as applicable, at 13% per annum, payable quarterly in arrears on each Interest Payment Date, to the Issuer.

"Issuer Order" means a written request or order signed on behalf of the Issuer by an Officer of the Issuer, who must be the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer of the Issuer, and delivered to the Trustee or the Collateral Agent.

"Issuer Priority Amount" means (i) a principal amount equal to $4.0 million plus (ii) any amounts added due to unpaid Issuer Incremental Amounts in respect of the Issuer Priority Amount, less (iii) any repayments of the Issuer Priority Amounts to the Issuer.

"Issuer Secondary Amount" means (i) a principal amount equal to $6.0 million plus (ii) any amounts added due to unpaid Issuer Incremental Amounts in respect of the Issuer Secondary Amount, less (iii) any repayments of the Issuer Secondary Amounts to the Issuer.

"Legal Holiday" means a Saturday, a Sunday or a day on which commercial banking institutions are not required to be open in the State of New York, the place of payment or the State of Washington, as the case may be. In any case where any Interest Payment Date, Redemption Date or maturity date of any Note shall not be a Business Day, then (notwithstanding any other provision of this Indenture or of the Notes) payment of principal (or premium, if any) or interest need not be made on such date, but may be made on the next succeeding Business Day with the same force and effect as if made on the Interest Payment Date, Redemption Date, or at the maturity date; provided that no interest shall accrue for the period from and after such Interest Payment Date, Redemption Date or maturity date, as the case may be, through such next succeeding Business Day.

"Lien" means, with respect to any asset, any mortgage, lien (statutory or otherwise), pledge, hypothecation, charge, security interest, preference, priority or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction; provided that in no event shall an operating lease be deemed to constitute a Lien.

"Moody's" means Moody's Investors Service, Inc. and any successor thereto.

"Notes" means the Notes authenticated and delivered under this Indenture including any PIK Notes subsequently issued under this Indenture.

"Notes Documentation" means the Notes, this Indenture and the Security Documents.

"Notes Obligations" means Obligations in respect of this Indenture, the Notes and to the extent relating to this Indenture or the Notes, the Security Documents, including for the avoidance of doubt, Obligations in respect of guarantees thereof.

"Obligations" means any principal, interest, penalties, fees, indemnifications, reimbursements and all other present and future indebtedness, obligations, and liabilities under the documentation governing any indebtedness, whether or not the right of payment in respect of such indebtedness, obligations and liabilities is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, disputed, undisputed, legal, equitable, secured, unsecured, and whether or not such indebtedness, obligations, interest and liabilities are discharged, allowed, stayed or otherwise affected by any proceeding (including whether or not allowed in any proceeding under any Bankruptcy Law).

"Officer" means the Chairman of the Board, the Chief Executive Officer, the President, any Executive Vice President, Senior Vice President or Vice President, the Treasurer or the Secretary of the Issuer.

"Officer's Certificate" means a certificate signed on behalf of the Issuer by an Officer of the Issuer, who must be the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer of the Issuer, that meets the requirements set forth in this Indenture.

"Opinion of Counsel" means a written opinion from legal counsel who is reasonably acceptable to the Trustee. The counsel may be an employee of or counsel to the Issuer or the Trustee.

"Owner" means (x) WMMRC until the occurrence of an Insurance Book Closing and (y) the protected cell created by such Insurance Book Closing to which the Runoff Proceeds, the Trusts and the assets thereof are transferred, thereafter, in accordance with the terms of the Notes Documentation.

"Participant" means, with respect to the Depositary, Euroclear or Clearstream, a Person who has an account with the Depositary, Euroclear or Clearstream, respectively, (and, with respect to DTC, shall include Euroclear and Clearstream).

"Permitted Lien" means a Lien securing Obligations of the Issuer under (i) the Notes Documentation, (ii) the First Lien Documentation and (iii) the Acquisition Credit Facility, in each case, subject to the terms of the Intercreditor Agreement.

"Person" means any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other entity.

"PIK Interest" means interest paid with respect to the Notes in the form of increasing the outstanding principal amount of the Notes or issuing PIK Notes.

"PIK Notes" mean additional Notes issued under this Indenture on the same terms and conditions as the Notes issued on the Issue Date in connection with a PIK Payment. For purposes of this Indenture, all references to "PIK Notes" shall include the Related PIK Notes.

"PIK Payment" means an interest payment with respect to the Notes made by increasing the outstanding principal amount of the Notes or issuing PIK Notes.

"Record Date" for the interest payable on any applicable Interest Payment Date means with respect to the Notes, the [ ], [ ], [ ] or [ ] (whether or not a Business Day) immediately preceding such Interest Payment Date.

"Related PIK Notes" means, with respect to a Note, (i) each PIK Note issued in connection with a PIK Payment on such Note and (ii) each additional PIK Note issued in connection with a PIK Payment on a Related PIK Note with respect to such Note.

"Requirements of Law" means, with respect to any Person, collectively, the common law and all federal, state, provincial, local, foreign, multinational or international laws, statutes, codes, treaties, standards, rules and regulations, guidelines, ordinances, orders, judgments, writs, injunctions, decrees (including administrative or judicial precedents or authorities) and the interpretation or administration thereof by, and other determinations, directives, requirements or requests of, any Governmental Authority, in each case that are applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"Responsible Officer" means, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such Person's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

"Runoff Proceeds" means (a)(i) all net premiums, reinsurance recoverables, net revenue resulting from commutation of insurance contracts, net interest income, reserve releases and other revenues derived from the reinsurance contracts, investments and other assets of the Trusts less, without duplication, (ii)(A) the reasonable and necessary costs and expenses of the Trusts and the Owner (including, but not limited to, general and administrative expenses, audit fees, required regulatory capital contributions (which capital contributions will be added back to the Runoff Proceeds if applicable regulations permit such distributions thereof), expenses of regulatory compliance, including all costs associated with the Insurance Book Closing, expenses of administering this Indenture and taxes) attributable to the administration of the Trusts or the assets thereof and the collection of premiums and/or management of investments in connection therewith (which expenses shall include reasonable and customary expenses attributable to the foregoing paid under any administrative services agreement, investment management agreement or similar agreement), and (B) claims paid for covered losses and (b) the proceeds from the foregoing received by the Owner or the Issuer in cash, securities and/or other property from any sale, liq-

uidation, merger or other disposition in respect of the Owner or its interests in the Trusts or the assets thereof. The inclusion of clause (b) of this definition shall not be construed as a consent to any sale, liquidation, merger or other disposition or waiver of compliance with any covenant related thereto. For the avoidance of doubt, to the extent that Issuer or WMMRC pays any such cost, capital contribution or expense described in clause (ii)(A), payment by Issuer or WMMRC will be deemed a cost or expense of the Trusts.

"SEC" means the U.S. Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

"Security Agreement" means the Pledge and Security Agreement, dated as of [ ], 2012, by and among the Issuer, the Trustee, the First Lien Trustee, the Collateral Agent and U.S. Bank National Association, as Third Lien Agent (as defined therein), as the same may be amended, restated, amended and restated, renewed, replaced, supplemented or otherwise modified from time to time.

"Security Documents" means, collectively, the Security Agreement, the Intercreditor Agreement, the Control Agreement, other security agreements and directions to pay relating to the Collateral executed and delivered and/or filed and recorded in appropriate jurisdictions to preserve and protect the Liens on the Collateral (including, without limitation, financing statements under the Uniform Commercial Code of the relevant states) related to the security interests granted by any of the foregoing documents and any other document or instrument evidencing, creating or providing for a Lien on any real or personal tangible or intangible property as security for any or all of the Note Obligations under the Note Documents or any of the foregoing documents (including, without limitation, all such documents, agreements and instruments evidencing Liens required to be granted pursuant to Section 5.03(b)).

"Standard & Poor's" means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. and any successor thereto.

"Subsidiary" means, with respect to any Person:

(1) any corporation, association, or other business entity (other than a partnership, joint venture, limited liability company or similar entity) of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof; and

(2) any partnership, joint venture, limited liability company or similar entity of which

(x) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general or limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof whether in the form of membership, general, special or limited partnership or otherwise, and

(y) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

"Trust Indenture Act" means the Trust Indenture Act of 1939, as amended (15 U.S.C. §§ 77aaa-77bbbb).

"Trustee" means Law Debenture Trust Company of New York, as trustee, until a successor replaces it in accordance with Section 8.08 or Section 8.09 and thereafter means the successor serving hereunder.

"Trusts" means (a) Home Loan Reinsurance Co. United Guaranty Residential Insurance Company Reinsurance Agreement (Acct. No. x6401); (b) Home Loan Reinsurance Co. Genworth Reinsurance Co. Trust Agreement (Acct. No. x6403); (c) Mortgage Guaranty Insurance Corporation/WM MTG Reinsurance Co. Trust; (Acct. No. x2400); (d) Reinsurance Escrow Agreement among WM Mortgage Reinsurance Co. PMI Mortgage Insurance Company and US Bank (Acct. No. x6404); (e) Radian Guaranty Inc. and WM Mortgage Reinsurance Company Agreement, dated March 27, 2001 (Acct. No. x5700); (f) Home Loan Reinsurance Co. Republic Mortgage Co. Reinsurance Agreement, dated December 14, 1998 (Acct. No. x6402); (g) Washington Mutual Custody Account (Acct. No. x6406); and (h) WM Mortgage Reinsurance Company Inc. (Acct. No. x4202).

"Uniform Commercial Code" means the New York Uniform Commercial Code as in effect from time to time.

"WMMRC" means WM Mortgage Reinsurance Company, Inc., a Hawaii corporation and direct wholly-owned subsidiary of the Issuer.

SECTION 1.02. Other Definitions.

Term	Defined in Section
"Authentication Order"	2.02
"Covenant Defeasance"	9.03
"DTC"	2.03
"Event of Default"	7.01
"Legal Defeasance"	9.02
"Note Register"	2.03
"Paying Agent"	2.03
"Redemption Date"	3.07
"Registrar"	2.03
"Runoff Payment Date"	4.02(b)
"Runoff Proceeds Distribution"	4.02(a)
"Successor Company"	6.01

SECTION 1.03. Incorporation by Reference of Trust Indenture Act. Whenever this Indenture refers to a provision of the Trust Indenture Act ("TIA"), the provision is incorporated by reference in and made a part of this Indenture. The following TIA terms have the following meanings:

"indenture securities" means the Notes;

"indenture security Holder" means a Holder of a Note;

"indenture to be qualified" means this Indenture;

"indenture trustee" or "institutional trustee" means the Trustee; and

"obligor" on the Notes means the Issuer and any successor obligor upon the Notes. All other terms used in this Indenture that are defined by the Trust Indenture Act, defined by Trust Indenture Act reference to another statute or defined by SEC rule under the Trust Indenture Act have the meanings so assigned to them.

SECTION 1.04. Rules of Construction. Unless the context otherwise requires:

(a) a term has the meaning assigned to it;

(b) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

(c) "or" is not exclusive;

(d) "including" means including without limitation;

(e) words in the singular include the plural, and in the plural include the singular;

(f) "will" shall be interpreted to express a command;

(g) provisions apply to successive events and transactions;

(h) references to sections of, or rules under, the Securities Act shall be deemed to include substitute, replacement or successor sections or rules adopted by the SEC from time to time;

(i) unless the context otherwise requires, any reference to an "Article," "Section" or "clause" refers to an Article, Section or clause, as the case may be, of this Indenture; and

(j) the words "herein," "hereof" and "hereunder" and other words of similar import refer to this Indenture as a whole and not any particular Article, Section, clause or other subdivision.

SECTION 1.05. Acts of Holders.

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by an agent duly appointed in writing. Except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments or record or both are delivered to the Trustee and, where it is hereby expressly required, to the Issuer. Proof of execution of any such instrument or of a writing appointing any such agent, or the holding by any Person of a Note, shall be sufficient for any purpose of this Indenture and (subject to Section 8.01) conclusive in favor of the Trustee and the Issuer, if made in the manner provided in this Section 1.05.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by or on behalf of any legal entity other than an individual, such certificate or affidavit shall also constitute proof of the authority of the Person executing the same. The fact and date of the execution of any such

instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner that the Trustee deems sufficient.

(c) The ownership of Notes shall be proved by the Note Register.

(d) Any request, demand, authorization, direction, notice, consent, waiver or other action by the Holder of any Note shall bind every future Holder of the same Note and the Holder of every Note issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof, in respect of any action taken, suffered or omitted by the Trustee or the Issuer in reliance thereon, whether or not notation of such action is made upon such Note.

(e) The Issuer may, at its option in the circumstances permitted by the Trust Indenture Act, set a record date for purposes of determining the identity of Holders entitled to give any request, demand, authorization, direction, notice, consent, waiver or take any other act, or to vote or consent to any action by vote or consent authorized or permitted to be given or taken by Holders, but the Issuer shall have no obligation to do so.

(f) Without limiting the foregoing, a Holder entitled to take any action hereunder with regard to any particular Note may do so with regard to all or any part of the principal amount of such Note or by one or more duly appointed agents, each of which may do so pursuant to such appointment with regard to all or any part of such principal amount. Any notice given or action taken by a Holder or its agents with regard to different parts of such principal amount pursuant to this paragraph shall have the same effect as if given or taken by separate Holders of each such different part.

(g) Without limiting the generality of the foregoing, a Holder, including the Depositary, may make, give or take, by a proxy or proxies duly appointed in writing, any request, demand, authorization, direction, notice, consent, waiver or other action provided in this Indenture to be made, given or taken by Holders, and the Depositary may provide its proxy to the beneficial owners of interests in any such Global Note through such Depositary's standing instructions and customary practices.

(h) The Issuer may fix a record date for the purpose of determining the Persons who are beneficial owners of interests in any Global Note held by DTC entitled under the procedures of such Depositary to make, give or take, by a proxy or proxies duly appointed in writing, any request, demand, authorization, direction, notice, consent, waiver or other action provided in this Indenture to be made, given or taken by Holders. If such a record date is fixed, the Holders on such record date or their duly appointed proxy or proxies, and only such Persons, shall be entitled to make, give or take such request, demand, authorization, direction, notice, consent, waiver or other action, whether or not such Holders remain Holders after such record date. No such request, demand, authorization, direction, notice, consent, waiver or other action shall be valid or effective if made, given or taken more than 90 days after such record date.

ARTICLE II

THE NOTES

SECTION 2.01. Form and Dating; Terms.

(a) General. The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A hereto. The Notes may have notations, legends or endorsements required by law, stock exchange rules or usage. Each Note shall be dated the date of its authentication. The Notes shall be issued in whole dollar ($1.00) amounts and integral multiples of $1.00, subject to the issu-

ance of PIK Interest pursuant to Section 4.02 hereof, in which case the aggregate principal amount of Notes may be increased by, or PIK Notes may be issued in, an aggregate principal amount equal to the amount of PIK Interest paid by the Issuer for the applicable period, rounded up to the nearest whole dollar.

(b) Global Notes. Notes issued in global form shall be substantially in the form of Exhibit A hereto (including the Global Note Legend thereon and the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Notes issued in definitive form shall be substantially in the form of Exhibit A hereto (but without the Global Note Legend thereon and without the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Each Global Note shall represent such of the outstanding Notes as shall be specified on the face of such Global Note, as increased or decreased in the "Schedule of Exchanges of Interests in the Global Note" attached thereto and by the payment of PIK Interest and each shall provide that it shall represent up to the aggregate principal amount of Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as applicable, to reflect exchanges and redemptions and the payment of PIK interest by increasing or reducing the aggregate principal amount of such Global Note. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby shall be made by the Trustee or the Custodian, at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.06 hereof or the Issuer in accordance with Section 2.01(d).

(c) Terms. The terms and provisions contained in the Notes shall constitute, and are hereby expressly made, a part of this Indenture and the Issuer and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any Note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.

(d) Issuance of PIK Notes. In connection with the payment of PIK Interest, the Issuer is entitled to, without the consent of the Holders, increase the outstanding principal amount of the Notes or issue PIK Notes.

SECTION 2.02. Execution and Authentication. At least one Officer of the Issuer shall execute the Notes on behalf of the Issuer by manual, facsimile or electronic (e.g. .pdf) signature.

If an Officer of the Issuer whose signature is on a Note no longer holds that office at the time the Trustee authenticates the Note, the Note shall nevertheless be valid.

A Note shall not be entitled to any benefit under this Indenture or be valid or obligatory for any purpose until authenticated substantially in the form of Exhibit A attached hereto, as the case may be, by the manual signature of the Trustee. The signature shall be conclusive evidence that the Note has been duly authenticated and delivered under this Indenture.

On the Issue Date, the Trustee shall, upon receipt of an Issuer Order (an "Authentication Order"), which order shall set forth the number of separate Note certificates, the principal amount of each of the Notes to be authenticated, the date on which the Notes are to be authenticated, the registered holder of each Note and delivery instructions, authenticate and deliver the Notes. In addition, at any time, from time to time, the Trustee shall upon receipt of an Authentication Order authenticate and deliver any PIK Notes.

The Trustee may appoint an authenticating agent acceptable to the Issuer to authenticate Notes. An authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference

in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as an Agent to deal with Holders or an Affiliate of the Issuer.

SECTION 2.03. Registrar and Paying Agent. The Issuer shall maintain (i) an office or agency where Notes may be presented for registration of transfer or for exchange ("Registrar") and (ii) an office or agency where Notes may be presented for payment ("Paying Agent"). The Registrar shall keep a register of the Notes ("Note Register") reflecting the ownership of the Notes outstanding from time to time and of their transfer. The Registrar shall also facilitate the transfer of the Notes on behalf of the Issuer in accordance with Section 2.06 and Article XIV hereof. The Issuer may appoint one or more co-registrars and one or more additional paying agents. The term "Registrar" includes any co-registrar, and the term "Paying Agent" includes any additional paying agents. The Issuer initially appoints the Trustee as Paying Agent. The Issuer may change any Paying Agent or Registrar without prior notice to any Holder. The Issuer shall notify the Trustee in writing of the name and address of any Agent not a party to this Indenture. If the Issuer fails to appoint or maintain another entity as Registrar or Paying Agent, the Trustee shall, to the extent that it is capable, act as such.

The Issuer initially appoints The Depository Trust Company ("DTC") to act as Depositary with respect to the Global Notes representing the Notes.

The Issuer initially appoints the Trustee to act as the Registrar and Paying Agent for the Notes and the Trustee agrees to initially so act.

SECTION 2.04. Paying Agent to Hold Money in Trust. The Issuer shall require each Paying Agent other than the Trustee to agree in writing that the Paying Agent shall hold in trust for the benefit of Holders or the Trustee all money held by the Paying Agent for the payment of principal, premium, if any, or interest on the Notes, and will notify the Trustee of any default by the Issuer in making any such payment. While any such default continues, the Trustee may require a Paying Agent to pay all money held by it to the Trustee. The Issuer at any time may require a Paying Agent to pay all money held by it to the Trustee. Upon payment over to the Trustee, the Paying Agent (if other than the Issuer or a Subsidiary) shall have no further liability for such funds. If the Issuer or a Subsidiary acts as Paying Agent, it shall segregate and hold in a separate trust fund for the benefit of the Holders all funds held by it as Paying Agent. Upon any Event of Default pursuant to Section 7.01(5), (6) or (7), the Trustee shall serve as Paying Agent for the Notes.

SECTION 2.05. Holder Lists. The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of all Holders and shall otherwise comply with Trust Indenture Act Section 312(a). If the Trustee is not the Registrar, the Issuer shall furnish to the Trustee at least five (5) Business Days before each Interest Payment Date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of the Holders of Notes and the Issuer shall otherwise comply with Trust Indenture Act Section 312(a).

SECTION 2.06. Transfer and Exchange.

(a) When Notes are presented to the Registrar with a request to register the transfer or to exchange them for an equal principal amount of Notes of other denominations, the Registrar shall register the transfer or make the exchange if its requirements for such transactions are met; provided, however, that any Note presented or surrendered for transfer or exchange shall be duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar and the Trustee duly executed by the Holder thereof or by his attorney duly authorized in writing. To permit registrations of

transfers and exchanges, the Issuer shall execute and the Trustee shall authenticate Global Notes and Definitive Notes upon the Issuer's order or at the Registrar's request.

The Registrar shall not be required to register the transfer of or exchange any Note selected for prepayment in whole or in part, except the portion not being paid of any Note being prepaid in part.

The Issuer shall not be required (A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business 15 days before the day of selection of Notes to be redeemed under Section 3.02 hereof and ending at the close of business on the day of selection, (B) to register the transfer of or to exchange any Note so selected for redemption in whole or in part, except the portion not being paid of any Note being redeemed in part or (C) to register the transfer of or to exchange a Note between a record date and the next succeeding Interest Payment Date.

No service charge shall be made to any Holder of a Note for any registration of transfer or exchange (except as otherwise permitted herein), but the Issuer may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than such transfer tax or similar governmental charge payable upon exchanges pursuant to Sections 2.10 and 3.06 hereof, which shall be paid by the Issuer).

Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Issuer may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and Interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Issuer shall be affected by notice to the contrary.

(b) Each Global Note shall bear a legend in substantially the following form:

"UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), NEW YORK, NEW YORK, TO THE ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF DTC OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF."

(c) Cancellation and/or Adjustment of Global Notes. At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or the Issuer has repurchased a particular Global Note or a particular Global Note has been prepaid, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee

in accordance with Section 2.11 hereof. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note shall be reduced accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Custodian at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Custodian at the direction of the Trustee to reflect such increase.

(d) Owners of interests in the Global Note will be entitled to have individual Definitive Notes registered in their names and to receive certificates in respect thereof if (i) DTC notifies the Issuer in writing that it is no longer willing or able to discharge properly its responsibilities as Depositary with respect to the Notes, or ceases to be a "clearing agency" under applicable law, or is at any time no longer eligible to act as such and the Issuer is not able to appoint a qualified successor within 90 days of receiving notice or becoming aware of such ineligibility, or (ii) DTC or any alternative clearing system on behalf of which the Notes evidenced by a Global Note may be held is closed for business for a continuous period of 14 days (other than by reason of holidays, statutory or otherwise) or announces an intention permanently to cease business or in fact does so, the Issuer will cause sufficient certificates for individual Definitive Notes to be issued, executed and delivered to the Registrar and upon receipt of an Issuer Order by the Trustee, such Notes shall be authenticated and dispatched to the relevant Holders. In connection with any such delivery, a person having an interest in the Global Note must provide to the Registrar a written order containing instructions and such other information and certifications as the Issuer and the Trustee may require to complete, execute and deliver such certificates in respect of individual Definitive Notes.

SECTION 2.07. Replacement Notes

If any mutilated Note is surrendered to the Trustee, the Registrar or the Issuer or the Trustee receives evidence to its satisfaction of the ownership and destruction, loss or theft of any Note, the Issuer shall issue and the Trustee, upon receipt of an Authentication Order, shall authenticate a replacement Note if the Trustee's requirements are met. If required by the Trustee or the Issuer, an indemnity bond must be supplied by the Holder that is sufficient in the judgment of the Trustee and the Issuer to protect the Issuer, the Trustee, any Agent and any authenticating agent from any loss that any of them may suffer if a Note is replaced. The Issuer and the Trustee may charge the Holder for their expenses in replacing a Note.

Every replacement Note issued in accordance with this Section 2.07 is a contractual obligation of the Issuer and shall be entitled to all of the benefits of this Indenture equally and proportionately with all other Notes duly issued hereunder.

SECTION 2.08. Outstanding Notes. The Notes outstanding at any time are all the Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Note effected by the Trustee in accordance with the provisions hereof and those described in this Section 2.08 as not outstanding. Except as set forth in Section 2.09 hereof, a Note does not cease to be outstanding because the Issuer or an Affiliate of the Issuer holds the Note.

If a Note is replaced pursuant to Section 2.07 hereof, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Note is held by a protected purchaser (as defined in Section 8-303 of the Uniform Commercial Code).

If the principal amount of any Note is considered paid under Section 5.01 hereof, it ceases to be outstanding and interest on it ceases to accrue.

If the Paying Agent holds, on a Redemption Date or maturity date, money sufficient to pay the principal amount of the Notes (or portions thereof) payable on that date and accrued but unpaid interest thereon, then on and after that date such Notes (or portions thereof) shall be deemed to be no longer outstanding and shall cease to accrue interest.

SECTION 2.09. Treasury Notes. In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Issuer or by any Affiliate of the Issuer, shall be considered as though not outstanding, except that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes that a Responsible Officer of the Trustee knows are so owned shall be so disregarded.

SECTION 2.10. Temporary Notes. Until certificates representing Notes are ready for delivery, the Issuer may prepare and the Trustee, upon receipt of an Authentication Order, shall authenticate temporary Notes. Temporary Notes shall be substantially in the form of Definitive Notes but may have variations that the Issuer considers appropriate for temporary Notes and as shall be reasonably acceptable to the Trustee. Without unreasonable delay, the Issuer shall prepare and the Trustee shall authenticate Definitive Notes in exchange for temporary Notes.

Holders and beneficial holders, as the case may be, of temporary Notes shall be entitled to all of the benefits accorded to Holders, or beneficial holders, respectively, of Notes under this Indenture.

SECTION 2.11. Cancellation. The Issuer at any time may deliver Notes to the Trustee for cancellation. The Registrar and Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee or, at the direction of the Trustee, the Registrar or the Paying Agent and no one else shall cancel all Notes surrendered for registration of transfer, exchange, payment, replacement or cancellation and shall destroy cancelled Notes (subject to the record retention requirement of the Exchange Act). Upon the request of the Issuer, certification of the destruction of all cancelled Notes shall be delivered to the Issuer. The Issuer may not issue new Notes to replace Notes that it has paid or that have been delivered to the Trustee for cancellation.

SECTION 2.12. Defaulted Interest. If the Issuer defaults in a payment of interest on the Notes, it shall pay the defaulted interest in any lawful manner plus, to the extent lawful, interest payable on the defaulted interest, in each case at the rate provided in the Notes and in Section 5.01 hereof to the Persons who are Holders on a subsequent special record date. The Issuer shall notify the Trustee in writing of the amount of defaulted interest proposed to be paid on each Note and the date of the proposed payment, and at the same time the Issuer shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such defaulted interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such defaulted interest as provided in this Section 2.12. The Issuer shall fix or cause to be fixed each such special record date and payment date; provided that no such special record date shall be less than 10 days prior to the related payment date for such defaulted interest. At least 15 days before any such special record date, the Issuer (or, upon the

written request of the Issuer, the Trustee in the name and at the expense of the Issuer) shall mail or cause to be mailed, first-class postage prepaid, to each Holder, with a copy to the Trustee, a notice at his or her address as it appears in the Note Register that states the special record date, the related payment date and the amount of such interest to be paid.

Subject to the foregoing provisions of this Section 2.12 and for greater certainty, each Note delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Note shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Note.

SECTION 2.13. CUSIP/ISIN Numbers. The Issuer in issuing the Notes may use CUSIP and ISIN numbers (in each case, if then generally in use) and, if so, the Trustee shall use CUSIP and ISIN numbers in notices of redemption as a convenience to Holders; provided, that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice of redemption and that reliance may be placed only on the other identification numbers printed on the Notes, and any such redemption shall not be affected by any defect in or omission of such numbers. The Issuer will as promptly as practicable notify the Trustee in writing of any change in the CUSIP and ISIN numbers.

SECTION 2.14. Calculation of Principal Amount of Securities. The aggregate principal amount of the Notes, at any date of determination, shall be the principal amount of the Notes, including any PIK Notes issued in respect thereof, and any increase in the principal amount thereof, as a result of a PIK Payment at such date of determination. With respect to any matter requiring consent, waiver, approval or other action of the Holders of a specified percentage of the principal amount of all the Notes, such percentage shall be calculated, on the relevant date of determination, by dividing (a) the principal amount, as of such date of determination, of Notes, the Holders of which have so consented by (b) the aggregate principal amount, as of such date of determination, of the Notes then outstanding, in each case, as determined in accordance with the preceding sentence, Section 2.08 and Section 2.09 of this Indenture. Any such calculation made pursuant to this Section 2.14 shall be made by the Issuer and delivered to the Trustee pursuant to an Officer's Certificate.

SECTION 2.15. No Gross Up; Withholding. The Issuer shall not be obligated to pay additional amounts to the Holders or beneficial owners of the Notes as a result of any withholding or deduction for, or an account of, any present or future taxes, duties, assessments, withholding or governmental change with respect to the Notes. Because the status of the Notes is unclear, it is anticipated that distributions on the Notes are subject to U.S. federal income withholding tax.

ARTICLE III

REDEMPTION

SECTION 3.01. Notices to Trustee. If the Issuer elects to redeem the Notes pursuant to Section 3.07 hereof, it shall furnish to the Trustee, at least five (5) Business Days (or such shorter period as allowed by the Trustee) before notice of redemption is required to be mailed or caused to be mailed to Holders pursuant to Section 3.03 hereof but not more than 60 days before a Redemption Date, an Officer's Certificate of the Issuer setting forth (i) the paragraph or subparagraph of such Note and/or Section of this Indenture pursuant to which the redemption shall occur, (ii) the Redemption Date, (iii) the principal amount of the Notes, to be redeemed and (iv) the redemption price.

SECTION 3.02. Selection of Notes to Be Redeemed. If less than all of the Notes are to be redeemed at any time, the Trustee shall select the Notes of such series to be redeemed (a) if the Notes are listed on any national securities exchange, in compliance with the requirements of the principal national securities exchange on which the Notes are listed or (b) on a pro rata basis to the extent practicable, or, if the pro rata basis is not practicable for any reason, by lot or by such other method the Trustee shall deem fair and appropriate. In the event of partial redemption by lot, the particular Notes to be redeemed shall be selected, unless otherwise provided herein, not less than 30 nor more than 60 days prior to the Redemption Date by the Trustee from the outstanding Notes not previously called for redemption.

The Trustee shall promptly notify the Issuer in writing of the Notes selected for redemption and, in the case of any Note selected for partial redemption, the principal amount thereof to be redeemed. Notes and portions of Notes selected shall be in whole dollar ($1.00) amounts or whole dollar multiples in excess thereof. Except as provided in the preceding sentence, provisions of this Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption.

SECTION 3.03. Notice of Redemption. The Issuer shall request and the Trustee shall be authorized to provide a list of record holders, as of a date determined by the Issuer. The Issuer shall mail or cause to be mailed by first-class mail notices of redemption at least 30 days but not more than 60 days before the Redemption Date to each Holder of Notes to be redeemed at such Holder's registered address appearing in the Note Register or otherwise in accordance with Applicable Procedures. Notices of redemption may not be conditional.

The notice shall identify the Notes to be redeemed and shall state:

(a) the Redemption Date;

(b) if any Note is to be redeemed in part only, the portion of the principal amount of that Note that is to be redeemed and that, after the Redemption Date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed portion of the original Note representing the same indebtedness to the extent not redeemed will be issued in the name of the Holder of the Notes upon cancellation of the original Note;

(c) the name and address of the Paying Agent;

(d) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;

(e) that, unless the Issuer defaults in making such redemption payment, interest on Notes called for redemption ceases to accrue on and after the Redemption Date;

(f) the paragraph or subparagraph of the Notes and/or Section of this Indenture pursuant to which the Notes called for redemption are being redeemed; and

(g) the CUSIP and ISIN number, if any, printed on the Notes being redeemed and that no representation is made as to the correctness or accuracy of any such CUSIP and ISIN number that is listed in such notice or printed on the Notes.

At the Issuer's request, the Trustee shall give the notice of redemption in the Issuer's name and at its expense; provided that the Issuer shall have delivered to the Trustee, at least five (5) Business Days before notice of redemption is required to be mailed or caused to be mailed to Holders pursuant to this Section 3.03 (unless a shorter notice shall be agreed to by the Trustee), an Officer's Certificate of

the Issuer requesting that the Trustee give such notice (in which case the Issuer shall provide to the Trustee the complete form of such notice in the name and at the expense of the Issuer) and setting forth the information to be stated in such notice as provided in the preceding paragraph.

The Issuer may provide in the notice of redemption that payment of the redemption price and performance of the Issuer's obligations with respect to such redemption or purchase may be performed by another Person.

SECTION 3.04. Effect of Notice of Redemption. Once notice of redemption is mailed in accordance with Section 3.03 hereof, Notes called for redemption become irrevocably due and payable on the Redemption Date at the redemption price. The notice, if mailed in a manner herein provided, shall be conclusively presumed to have been given, whether or not the Holder receives such notice. In any case, failure to give such notice by mail or any defect in the notice to the Holder of any Note designated for redemption in whole or in part shall not affect the validity of the proceedings for the redemption of any other Note. Subject to Section 3.05 hereof, on and after the Redemption Date, interest ceases to accrue on Notes or portions of Notes called for redemption.

SECTION 3.05. Deposit of Redemption Price.

(a) Prior to 11:00 a.m. (New York City time) on the Redemption Date, the Issuer shall deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption price of and accrued and unpaid interest on all Notes to be redeemed on that Redemption Date. The Trustee or the Paying Agent shall promptly, and in any event within two (2) Business Days after the Redemption Date, return to the Issuer any money deposited with the Trustee or the Paying Agent by the Issuer in excess of the amounts necessary to pay the redemption price of, and accrued and unpaid interest on, all Notes to be redeemed.

(b) If the Issuer complies with the provisions of the preceding paragraph (a), on and after the Redemption Date, interest shall cease to accrue on the applicable series of Notes or the portions of Notes called for redemption, whether or not such Notes are presented for payment. If a Note is redeemed on or after a Record Date but on or prior to the related Interest Payment Date, then any accrued and unpaid interest to the Redemption Date shall be paid to the Person in whose name such Note was registered at the close of business on such Record Date. If any Note called for redemption shall not be so paid upon surrender for redemption because of the failure of the Issuer to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the Redemption Date until such principal is paid, and to the extent lawful on any interest accrued to the Redemption Date not paid on such unpaid principal, in each case at the rate provided in the Notes and in Section 5.01 hereof.

SECTION 3.06. Notes Redeemed in Part. Upon surrender of a Note that is redeemed in part, the Issuer shall issue and the Trustee shall authenticate for the Holder at the expense of the Issuer a new Note equal in principal amount to the unredeemed portion of the Note surrendered representing the same indebtedness to the extent not redeemed; provided that each new Note will be in a whole dollar ($1.00) principal amount. It is understood that, notwithstanding anything in this Indenture to the contrary, only an Authentication Order and not an Opinion of Counsel or Officer's Certificate of the Issuer is required for the Trustee to authenticate such new Note.

SECTION 3.07. Optional Redemption. At any time the Notes may be redeemed or purchased (by the Issuer or any other Person designated by the Issuer), in whole or in part, at a redemption price equal to 100% of the principal amount of Notes redeemed (the "Redemption Date") and, without duplication, accrued and unpaid interest to the Redemption Date, subject to the rights of Holders on

the relevant Record Date to receive interest due on the relevant Interest Payment Date. Any redemption pursuant to this Section 3.07 shall be made pursuant to the provisions of Sections 3.01 through 3.06 hereof.

SECTION 3.08. Mandatory Redemption. The Issuer shall not be required to make any mandatory redemption or sinking fund payments with respect to the Notes (other than pursuant to Section 4.02).

ARTICLE IV

ESTABLISHMENT OF FUNDS AND APPLICATION AND INVESTMENT OF MONIES THEREIN

SECTION 4.01. Maintenance of Collateral Account. The Issuer shall maintain the Collateral Account at all times.

SECTION 4.02. Deposit of Runoff Proceeds and Application Thereof.

(a) Issuer shall, and shall cause the Owner to, deposit all distributions, dividends or other receipts in respect of Runoff Proceeds on the date paid to the Issuer ("Runoff Proceeds Distributions") directly into the Collateral Account. If Issuer shall nevertheless receive any Runoff Proceeds Distributions other than by deposit directly into the Collateral Account, it shall cause all such Runoff Proceeds Distributions to be deposited into the Collateral Account on the same Business Day on which they are received. Runoff Proceeds Distributions shall not be deposited in any deposit or securities account other than the Collateral Account, and all such Runoff Proceeds Distributions, while not held in the Collateral Account shall be held by the Issuer in trust for the Collateral Agent and shall not be commingled with any other assets of the Issuer.

(b) Subject to Section 7.14, on each Interest Payment Date, the Issuer shall direct the Collateral Agent to apply all amounts on deposit in the Collateral Account and any other Runoff Proceeds Distributions, to the extent any such amounts and Runoff Proceeds Distributions remain following application thereof pursuant to Section 4.02(b) of the First Lien Indenture, in the following order (each such date of application, a "Runoff Payment Date"):

(i) FIRST: To the extent not paid, to the pro rata payment of any compensation, fees and expenses, if any, due to the Trustee and the Collateral Agent on such Runoff Payment Date for any services rendered under the Indenture or the Security Documents.

(ii) SECOND: To the payment to the Issuer of an amount equal to the Issuer Incremental Amount accrued, if any, since the immediately preceding Interest Payment Date on the Issuer Secondary Amount.

(iii) THIRD: To the payment to the Issuer of an amount equal to any unpaid Issuer Secondary Amount.

(iv) FOURTH: To the Paying Agent for payment to the Holders of any accrued and unpaid interest, if any, with respect to the Notes; provided, however, that if on any Runoff Payment Date the Runoff Proceeds Distributions are not sufficient for such purposes, then any accrued and unpaid interest, if any, shall be paid as PIK Interest or as additional principal in accordance with the terms of the Notes.

(v) FIFTH: To the Paying Agent for payment to the Holders of any unpaid principal and other Notes Obligations, if any, with respect to the Notes.

After the payments required by paragraphs FIRST, SECOND, THIRD, FOURTH and FIFTH above have been made, the balance on deposit in the Collateral Account shall be paid as provided in Section 2.4(a) of the Intercreditor Agreement.

(c) Any Issuer Incremental Amount not paid with respect to the Issuer Priority Amount or the Issuer Secondary Amount on any Interest Payment Date, shall be added to the then outstanding Issuer Priority Amount or Issuer Secondary Amount, as applicable.

SECTION 4.03. Investment of Funds. All moneys in the Collateral Account shall be invested at the written direction of an Officer of the Issuer in cash and Cash Equivalents. On each Interest Payment Date on which any Cash Equivalents are held in or credited to the Collateral Account, the Collateral Agent shall sell or otherwise convert such Cash Equivalents to cash in order to make the payments provided above.

ARTICLE V

COVENANTS

SECTION 5.01. Payment of Notes. The Issuer shall pay or cause to be paid the principal of and interest on the Notes on the dates and in the manner provided in the Notes (in the case of the payment of principal and interest in cash, only to the extent funds are available therefor) as provided for in paragraphs FOURTH and FIFTH of Section 4.02(b) herein. Principal and interest shall be considered paid on the date due if the Paying Agent holds as of 11:00 a.m. Eastern Time on the due date money deposited by the Issuer or transferred from the Collateral Account in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest then due. PIK Interest shall be considered paid on the date due if the Trustee is directed on or prior to such date to issue PIK Notes or increase the principal amount of the applicable Notes, in each case in an amount equal to the amount of the applicable PIK Interest.

The Issuer shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law whether or not allowed) on, (i) overdue principal at the rate that is 2% higher than the then applicable interest rate on the Notes to the extent lawful, and (ii) overdue installments of interest (without regard to any applicable grace period) at the rate then applicable to the Notes to the extent lawful, provided, however that with respect to clauses (i) and (ii) above, payments of interest shall only be made in cash to the extent moneys are in or should have been deposited in the Collateral Account in accordance with Article IV or are available to be applied in accordance with Section 7.14 herein, and such payment of interest shall otherwise be paid in PIK Interest.

SECTION 5.02. Deposit of Runoff Proceeds Distributions. (a) So long as the Owner shall have accumulated Runoff Proceeds at such time, the Issuer shall cause the Owner to use commercially reasonable efforts to obtain the appropriate regulatory approval on or before the ninetieth (90th) day following the end of each fiscal year (or more frequently as the Issuer may in good faith determine to be commercially reasonable), of a dividend or distribution of the maximum amount of undistributed Runoff Proceeds that could reasonably be expected to be approved after consulting with the Owner's Hawaiian regulatory advisers and counsel, and within three (3) Business Days of the receipt of such approval, to pay to the Issuer such dividend or distribution and deposit such dividend or distribution on the date paid directly into the Collateral Account.

(b) On the Issue Date, the Issuer will irrevocably instruct and authorize WMMRC in writing (which instruction shall be applicable to the protected cell following an Insurance Book Closing) to deposit all Runoff Proceeds Distributions into the Collateral Account.

SECTION 5.03. Liens. (a) The Issuer will not, and will cause the Owner not to, directly or indirectly, create, incur, assume or suffer to exist any Lien of any kind (except Permitted Liens) on the Collateral, the equity interests issued by the Owner, any interests of the Owner in any of the Trusts or assets thereof, Runoff Proceeds Distributions or any Runoff Proceeds, or any proceeds of any of the foregoing.

(b) The Issuer will, and will cause WMMRC to, use commercially reasonable efforts to obtain approval from the applicable regulatory authorities to: (i) effect, as soon as reasonably practicable, the Insurance Book Closing and (ii) grant a second priority perfected security interest (subject to whatever limitations or conditions any such authority may impose) under the Security Documents in the equity issued by the Owner (including, upon the Insurance Book Closing, the protected cell to which the Trusts and their assets are transferred) and, after the Insurance Book Closing, the excess assets of the Owner and the Trusts. As soon as reasonably practicable following receipt of the necessary regulatory approvals, the Issuer will, and will cause WMMRC, the Owner and the Trusts, as applicable, to, consummate the Insurance Book Closing and grant such security interests, pursuant to the Security Agreement or a separate Security Document, which shall be in a form and with terms substantially similar to the Security Agreement, which for clarification purposes, may occur at different times depending on the timing of the receipt of such necessary regulatory approvals.

SECTION 5.04. Maintenance of Office or Agency. The Issuer shall maintain the offices or agencies (which may be an office of the Trustee or an affiliate of the Trustee, Registrar or co-registrar) in the Borough of Manhattan, The City of New York, as required under Section 2.03 where Notes may be surrendered for registration of transfer or for exchange and where notices and demands to or upon the Issuer in respect of the Notes and this Indenture may be served. The Issuer shall give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Issuer shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.

The Issuer may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; provided that no such designation or rescission shall in any manner relieve the Issuer of its obligation to maintain such offices or agencies as required by Section 2.03 for such purposes. The Issuer shall give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

The Issuer hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Issuer in accordance with Section 2.03 hereof.

SECTION 5.05. Reports and Other Information. The Issuer shall, and shall cause the Owner to, provide to the Holders and to the Trustee (a) an annual audited balance sheet and income statement of the Issuer and the Owner within 90 days following the end of each fiscal year and (b) monthly unaudited balance sheets and income statements of the Owner and each of the Trusts and the account statement of each segregated account into which any Runoff Proceeds are deposited within 45 days following the end of each month. The Issuer shall, and shall cause the Owner to, provide to the Holders and to the Trustee a monthly statement of the Collateral Account, including the amount and nature of any of its investments and any gain or loss associated therewith, within 30 days following the end of each month.

SECTION 5.06. Compliance Certificate. So long as any of the Notes are outstanding, the Issuer will deliver to the Trustee, within 5 Business Days after any Officer becomes aware of any Default or Event of Default, an Officers' Certificate specifying such Default or Event of Default and what action the Issuer is taking or propose to take with respect thereto. The Issuer shall furnish to the Trustee not less than annually, an Officers' Certificate as to his or her knowledge of the Issuer's compliance with all conditions and covenants under the Indenture.

SECTION 5.07. Limitation on Business Activities. The Issuer shall cause the Owner (i) to engage in no activities, other than administering the Trusts, collecting premiums and depositing the Runoff Proceeds Distributions into the Collateral Account and activities incidental thereto, (ii) to not originate any new insurance policies, and (iii) to not create, incur, issue, assume, guarantee or suffer to exist any indebtedness. The Issuer shall not permit the Owner to invest, or allow to be invested, any of the assets of the Trusts except in accordance with the applicable trust documents and substantially in accordance with past practices.

SECTION 5.08. Prohibition on Commingling. The Issuer shall cause the Owner to deposit all Runoff Proceeds released to it from the Trusts into a segregated account, which account shall consist solely of such Runoff Proceeds and proceeds thereof or interest thereon, and to hold such amounts in the segregated account until such time as they are distributed as Runoff Proceeds Distributions as provided for in Article IV hereof and will invest the same only in cash and Cash Equivalents. The Issuer shall cause the Owner to not deposit such Runoff Proceeds and other amounts in any deposit or securities account other than the segregated account referred to in the preceding sentence, and all such amounts shall be held by the Owner in trust for distribution as provided for in Article IV hereof and shall not be commingled with any other assets of the Owner or the Issuer.

SECTION 5.09. Stay, Extension and Usury Laws. The Issuer covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Indenture; and the Issuer (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenant that it shall not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law has been enacted.

SECTION 5.10. Corporate Existence. Except as permitted by Article VI or required by 5.03(b), the Issuer shall do or cause to be done all things necessary (i) to preserve and keep in full force and effect its corporate existence, and the corporate, partnership or other existence of the Owner in accordance with the respective organizational documents of the Issuer or the Owner (which, in the case of the Owner, will not be amended except as necessary to comply with regulatory requirements, effect the Insurance Book Closing and to maintain the ability to pay dividends), (ii) to maintain its direct ownership and voting control over 100% of the equity issued by the Owner (iii) to preserve and keep in full force

and effect the rights (charter and statutory), licenses and franchises of the Issuer and the Owner; provided that the Issuer shall not be required to preserve any such right, license or franchise described in this clause (iii) if the preservation thereof is no longer necessary for the administration of the Trusts or collection of the Runoff Proceeds and that the loss thereof is not adverse in any material respect to the Holders of the Notes, taken as a whole, and (iv) to not consolidate or merge the Owner with or into another Person.

SECTION 5.11. Security Documents. The Issuer will and will cause the Owner to comply with the terms of each Security Document to which it is a party.

SECTION 5.12. Reporting of Debt for Tax Purposes. The Issuer shall treat the Runoff Notes as debt for federal income tax purposes, and shall use commercially reasonable efforts to defend such treatment in connections with any examination or subsequent proceedings.

SECTION 5.13. Prohibition on Sale of Interests in Trusts. Except pursuant to an Insurance Book Closing and required by this Indenture, the Issuer will cause the Owner not to, directly or indirectly, (a) sell, lease, transfer or otherwise dispose of any of its interest in any of the Trusts, (b) permit any Trust to sell, lease, transfer or otherwise dispose of any of its assets other than in the ordinary course of administering and managing the assets of the Trust in accordance with the trust documents and investment policies of the Owner or (c) enter into any contract, agreement or understanding to effectuate (a) or (b) above.

ARTICLE VI

SUCCESSORS

SECTION 6.01. Merger, Consolidation or Sale of All or Substantially All Assets.

The Issuer shall not, directly or indirectly, consolidate or merge with or into or wind up into (whether or not the Issuer is the surviving corporation), and shall not sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of the properties or assets of the Issuer, in one or more related transactions, to any Person unless:

(1) the Issuer is the surviving corporation or the Person formed by or surviving any such consolidation or merger (if other than the Issuer) or the Person to whom such sale, assignment, transfer, lease, conveyance or other disposition will have been made, is a Person organized or existing under the laws of the United States, any state or territory thereof or the District of Columbia (such Person, as the case may be, being herein called the "Successor Company"); provided that in the case where the Successor Company is not a corporation, a co-obligor of the Notes is a corporation, organized or existing under any such laws;

(2) the Successor Company, if other than the Issuer, expressly assumes all the Notes Obligations pursuant to a supplemental indenture or other documents or instruments in form reasonably satisfactory to the Trustee (subject to the non-recourse provisions contained herein);

(3) at the time of such transaction, no Default exists and after giving effect to such transaction, no Default would exist;

(4) immediately after such transaction, WMMRC continues to be a direct or indirect wholly-owned subsidiary of the Successor Company; and

(5) the Issuer shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that such consolidation, merger or transfer and such supplemental indentures, if any, comply with this Indenture, the Notes and the Security Documents.

SECTION 6.02. Successor Corporation Substituted. Upon any consolidation or merger, or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the assets of the Issuer in accordance with Section 6.01(a) hereof, the successor corporation formed by such consolidation or into or with which the Issuer is merged or to which such sale, assignment, transfer, lease, conveyance or other disposition is made shall succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, lease, conveyance or other disposition, the provisions of this Indenture and the Security Documents referring to the Issuer shall refer instead to the successor corporation and not to the Issuer), and may exercise every right and power of the Issuer under this Indenture and the Security Documents with the same effect as if such successor Person had been named as the Issuer herein and therein; provided that the predecessor Issuer shall not be relieved from the obligation to pay the principal of and interest on the Notes except in the case of a sale, assignment, transfer, conveyance or other disposition of all of the Issuer's assets that meets the requirements of Section 6.01 hereof.

ARTICLE VII

DEFAULTS AND REMEDIES

SECTION 7.01. Events of Default. An "Event of Default" wherever used herein, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(1) default in payment when due and payable, at maturity, upon redemption, acceleration or otherwise, of principal of, or premium, if any, on the Notes;

(2) default for five Business Days or more in the payment when due of interest on or with respect to the Notes;

(3) the failure by the Issuer to perform, observe or comply with Sections 4.02, 5.02, 5.03, 5.06, 5.07, 5.08, 5.10 and 5.13 of this Indenture;

(4) failure by the Issuer for 30-days after receipt of written notice given by the Trustee or the Holders of not less than 25% in aggregate principal amount of the Notes to perform, observe or comply with any other covenant or agreement on its part under Article V of this Indenture (other than Sections 5.02, 5.03, 5.06, 5.07, 5.08, 5.10 and 5.13), provided that, it shall not constitute an Event of Default if, within 30-days after receipt of such written notice, corrective action is instituted and thereafter diligently pursued until the Default is cured;

(5) the Owner or the Issuer, pursuant to or within the meaning of any Bankruptcy Law:

(A) commences proceedings to be adjudicated bankrupt or insolvent;

(B) consents to the institution of bankruptcy or insolvency proceedings against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under applicable Bankruptcy law;

(C) consents to the appointment of a receiver, liquidator, assignee, trustee, sequestrator or other similar official of it or for all or a substantial part of its property; or

(D) makes a general assignment for the benefit of its creditors;

(6) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(A) is for relief against the Owner or the Issuer, in a proceeding in which the Owner or the Issuer, is to be adjudicated bankrupt or insolvent;

(B) appoints a receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Owner or the Issuer, or for all or a substantial part of the property of the Issuer or the Owner; or

(C) orders the liquidation of the Owner or the Issuer;

and the order or decree remains unstayed and in effect for 60 consecutive days;

(7) the Insurance Division of the Hawaii Department of Commerce and Consumer Affairs commences a dissolution, liquidation, insolvency or other similar proceeding against the Owner or the Issuer, or petitions a court of competent jurisdiction for an order of rehabilitation in accordance with applicable law.

SECTION 7.02. Acceleration.

(a) If any Event of Default (other than an Event of Default specified in clause (5), (6) or (7) of Section 7.01 hereof) occurs and is continuing under this Indenture, the Trustee by notice to the Issuer or the Holders of at least 25% in aggregate principal amount of the then total outstanding Notes by notice to the Issuer and the Trustee, in either case specifying in such notice the respective Event of Default and that such notice is a "notice of acceleration," may declare the principal, interest and premium, if any, on all the then outstanding Notes to be due and payable. Upon the effectiveness of such declaration, such principal and interest shall be due and payable immediately. Notwithstanding the foregoing, in the case of an Event of Default arising under clause (5), (6) or (7) of Section 7.01 hereof, all outstanding Notes shall be due and payable without further action or notice.

(b) The Holders of a majority in aggregate principal amount of the then outstanding Notes by written notice to the Trustee may on behalf of the Holders of all of the Notes rescind any acceleration with respect to the Notes and its consequences if such rescission would not conflict with any judgment or decree of a court of competent jurisdiction and if all existing Events of Default (except non-payment of principal, interest or premium that has become due solely because of the acceleration) have been cured or waived.

SECTION 7.03. Other Remedies. If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal, premium, if any, and interest on the Notes or to enforce the performance of any provision of the Notes, this Indenture or the Security Documents, subject to Section 7.16 herein.

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder of a Note in exercising any right or remedy accruing upon an Event of Default shall not impair the right or

remedy or constitute a waiver of or acquiescence in the Event of Default. All remedies are cumulative to the extent permitted by law.

SECTION 7.04. Specific Performance. The Issuer agrees that irreparable damage would occur and that the Trustee, the Collateral Agent and the Holders would not have any adequate remedy at law in the event that any of the provisions of this Indenture were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the Trustee, Collateral Agent and the Holders shall be entitled to an injunction or injunctions to prevent breaches of this Indenture and to enforce specifically the terms and provisions of this Indenture, including but not limited to Sections 4.02, 5.01, 5.02, 5.03, 5.07, 5.08, 5.11 and 5.13, in any court of competent jurisdiction, without proof of actual damages (and each party hereby waives any requirement for the securing or posting of any bond or other security in connection therewith); specific performance being in addition to any other remedy to which the parties are entitled at law or in equity.

SECTION 7.05. Waiver of Past Defaults. Holders of not less than a majority in aggregate principal amount of the then outstanding Notes (unless a higher percentage would be required under Section 10.02 to consent to an amendment of the relevant provision, in which case such higher percentage shall apply) by notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default (other than a Default under Section 5.01). Holders of not less than all affected then outstanding Notes by notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default under Section 5.01 and its respective consequences hereunder. Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon. This Section 7.05 is subject to Section 7.02 hereof.

SECTION 7.06. Control by Majority. Holders of a majority in principal amount of the then total outstanding Notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. The Trustee, however, may refuse to follow any direction that conflicts with law or this Indenture or that the Trustee determines is unduly prejudicial to the rights of any other Holder of a Note or that would involve the Trustee in personal liability.

SECTION 7.07. Limitation on Suits. Subject to Sections 7.04 and 7.08 hereof, no Holder of a Note may pursue any remedy with respect to this Indenture or the Notes unless:

(a) such Holder has previously given the Trustee notice that an Event of Default has occurred and is continuing;

(b) Holders of at least 25% in aggregate principal amount of the total outstanding Notes have requested the Trustee to pursue the remedy;

(c) Holders of the Notes have offered the Trustee satisfactory security or indemnity against any loss, liability or expense;

(d) the Trustee has not complied with such request within 60 days after the receipt thereof and the offer of security or indemnity; and

(e) Holders of a majority in principal amount of the total outstanding Notes have not given the Trustee a direction inconsistent with such request within such 60-day period.

A Holder of a Note may not use this Indenture to prejudice the rights of another Holder of a Note or to obtain a preference or priority over another Holder of a Note.

SECTION 7.08. Rights of Holders of Notes to Receive Payment. Notwithstanding any other provision of this Indenture and subject to Section 7.16, the right of any Holder of a Note to receive payment of principal of, premium, if any, and interest on the Note, on or after the respective due dates expressed in the Note, or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

SECTION 7.09. Collection Suit by Trustee. If an Event of Default specified in Section 7.01(1) or (2) hereof occurs and is continuing, the Trustee is authorized to recover judgment, subject to the limitation in Section 7.16 hereof, in its own name and as trustee of an express trust against the Issuer for the whole amount of principal of, premium, if any, and interest remaining unpaid on the Notes and interest on overdue principal and, to the extent lawful, interest and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

SECTION 7.10. Restoration of Rights and Remedies. If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceedings, the Issuer, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding has been instituted.

SECTION 7.11. Rights and Remedies Cumulative. Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes in Section 2.07 hereof, and subject to Section 7.16 hereof, no right or remedy herein or in the Security Documents conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder or in the Security Documents, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

SECTION 7.12. Delay or Omission Not Waiver. No delay or omission of the Trustee or of any Holder of any Note to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

SECTION 7.13. Trustee May File Proofs of Claim. The Trustee is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders of the Notes allowed in any judicial proceedings relative to the Issuer (or any other obligor upon the Notes), its creditors or its property and to collect, receive and distribute any money or other property payable or deliverable on any such claims and any custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, ex-

penses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 8.07 hereof. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 8.07 hereof out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

SECTION 7.14. Priorities. If the Trustee or any Agent collects any money or property pursuant to the enforcement of this Article VII, it shall pay out the money in the order set forth in Section 2.4(b) of the Intercreditor Agreement, provided that, in the case of a Recourse Action, other than in an Insolvency Proceeding, each as defined in the Intercreditor Agreement, such money or property shall be paid out in the order set forth in Section 2.4(e) of the Intercreditor Agreement.

The Trustee may fix a record date and payment date for any payment to Holders of Notes pursuant to this Section 7.14.

SECTION 7.15. Undertaking for Costs. In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as a Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 7.15 does not apply to a suit by the Trustee, a suit by a Holder of a Note pursuant to Section 7.08 hereof, or a suit by Holders of more than 10% in aggregate principal amount of the then outstanding Notes.

SECTION 7.16. Limitation on the Issuer's Obligations. Notwithstanding any other provision of the Indenture, the Notes, the Intercreditor Agreement and the other Security Documents to the contrary, the Trustee, on behalf of itself and the Holders, agrees that it and the Holders shall not have or take recourse (other than actions for specific performance under Section 7.04) with respect to the Notes Documentation against the Issuer or its assets and property or against WMMRC or the Owner or their respective assets and property (other than assets that were required to be transferred to the protected cell pursuant to the Insurance Book Closing), except (i) to the Collateral Account, (ii) if the Issuer fails to comply with its obligations pursuant to Sections 4.02(a), 4.02(b), 5.02 or 5.08, to the assets of the Issuer in an amount equal to the aggregate amount of any Runoff Proceeds or Runoff Proceeds Distributions that were not deposited into the Collateral Account, (iii) to the equity interests in and the excess assets of the Owner and the Trusts to the extent a Lien has been granted therein pursuant to Section 5.03(b) herein in favor of the Collateral Agent and (iv) to the Owner or the Issuer for costs and expenses, including reasonable attorney's fees, related to the enforcement of Sections 4.01, 4.02, 4.03, 5.02, 5.03, 5.07, 5.08, 5.10 and 5.13 herein, if the Holders or the Trustee, as applicable, are the prevailing party in such enforcement action.

ARTICLE VIII

TRUSTEE

SECTION 8.01. Duties of Trustee.

(a) If an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by the Notes Documentation, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) Except during the continuance of an Event of Default:

(i) the duties of the Trustee shall be determined solely by the express provisions of this Indenture and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the form required in this Indenture. However, in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein).

(c) The Trustee may not be relieved from liabilities for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) this paragraph does not limit the effect of paragraph (b) of this Section 8.01;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved in a court of competent jurisdiction that the Trustee was negligent in ascertaining the pertinent facts; and

(iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 8.02, 8.04 or 8.05 hereof.

(d) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b) and (c) of this Section 8.01.

(e) The Trustee shall be under no obligation to exercise any of its rights or powers under this Indenture at the request or direction of any of the Holders of the Notes unless the Holders have offered to the Trustee indemnity or security satisfactory to the Trustee against any loss, liability or expense.

(f) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Issuer. Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

SECTION 8.02. Rights of Trustee.

(a) The Trustee may conclusively rely upon any document believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter stated in the document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Issuer and its Subsidiaries, personally or by agent or attorney at the sole cost of the Issuer and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation.

(b) Before the Trustee acts or refrains from acting, it may require an Officer's Certificate of the Issuer or an Opinion of Counsel or both. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such Officer's Certificate or Opinion of Counsel. The Trustee may consult with counsel of its selection and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(c) The Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any agent or attorney appointed with due care.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture.

(e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Issuer shall be sufficient if signed by an Officer of the Issuer.

(f) None of the provisions of this Indenture shall require the Trustee to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or indemnity satisfactory to it against such risk or liability is not assured to it.

(g) The Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a Default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Notes and this Indenture.

(h) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder.

(i) In no event shall the Trustee be responsible or liable for special, indirect, or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

SECTION 8.03. Individual Rights of Trustee. The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Issuer or any Affiliate of the Issuer with the same rights it would have if it were not Trustee. However, in the event that the Trustee acquires any conflicting interest it must eliminate such conflict within 90 days, apply to

the SEC for permission to continue as trustee or resign. Any Agent may do the same with like rights and duties. The Trustee is also subject to Sections 8.10 and 8.11 hereof.

SECTION 8.04. Trustee's Disclaimer. The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Notes, it shall not be accountable for the Issuer's use of the proceeds from the Notes or any money paid to the Issuer or upon the Issuer's direction under any provision of this Indenture, it shall not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it shall not be responsible for any statement or recital herein or any statement in the Notes or any other document in connection with the sale of the Notes or pursuant to this Indenture other than its certificate of authentication. The recitals and statements contained herein and in the Notes, except those contained in any Trustee's certificate of authentication, shall be taken as the recitals and statements of the Issuer, and the Trustee or any authenticating agent assumes no responsibility for their correctness.

SECTION 8.05. Notice of Defaults. If a Default occurs and is continuing and if it is known to the Trustee, the Trustee shall mail to Holders of Notes a notice of the Default within 90 days after it occurs. Except in the case of a Default relating to the payment of principal, premium, if any, or interest on any Note, the Trustee may withhold from the Holders notice of any continuing Default if and so long as the board of directors, the executive committee, or a trust committee of directors and/or Responsible Officers, in each case, of the Trustee in good faith determines that withholding the notice is in the interests of the Holders of the Notes. The Trustee shall not be deemed to know of any Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is such a Default is received by the Trustee in accordance with Section 13.02 hereof at the Corporate Trust Office of the Trustee and such notice references the Notes and this Indenture. During any period in which an Event of Default has occurred and is continuing, the Trustee shall be entitled to have all Agents and Collateral Agents act at its direction.

SECTION 8.06. Reports by Trustee to Holders of the Notes. Within 60 days after each April 15, beginning with the April 15 following the date of this Indenture, and for so long as Notes remain outstanding, the Trustee shall mail to the Holders of the Notes a brief report dated as of such reporting date that complies with Trust Indenture Act Section 313(a) (but if no event described in Trust Indenture Act Section 313(a) has occurred within the twelve months preceding the reporting date, no report need be transmitted). The Trustee also shall comply with Trust Indenture Act Section 313(b)(1) and Section 313(b)(2) (to the extent applicable). The Trustee shall also transmit by mail all reports as required by Trust Indenture Act Section 313(c).

A copy of each report at the time of its mailing to the Holders of Notes shall be mailed to the Issuer and filed with each stock exchange on which the Notes are listed and the SEC in accordance with Trust Indenture Act Section 313(d). The Issuer shall promptly notify the Trustee when the Notes are listed on any stock exchange.

SECTION 8.07. Compensation and Indemnity. The Issuer shall pay to the Trustee from time to time such compensation for its acceptance of this Indenture and services hereunder as the parties shall agree in writing from time to time. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Issuer shall reimburse the Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses shall include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

The Issuer shall indemnify the Trustee and its officers, directors, employees, agents and any predecessor trustee (in its capacity as trustee) and its officers, directors, employees and agents for, and hold the Trustee harmless against, any and all loss, damage, claims, liability or expense (including reasonable attorneys' fees) incurred by it in connection with the acceptance or administration of this trust and the performance of its duties hereunder (including the costs and expenses of enforcing this Indenture against the Issuer (including this Section 8.07) or defending itself against any claim whether asserted by any Holder or the Issuer, or liability in connection with the acceptance, exercise or performance of any of its powers or duties hereunder). The Trustee shall notify the Issuer promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Issuer shall not relieve the Issuer of its obligations hereunder except to the extent the Issuer has been materially prejudiced thereby. The Issuer shall defend the claim and the Trustee may have separate counsel and the Issuer shall pay the fees and expenses of such counsel. The Issuer need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld. The Issuer need not reimburse any expense or indemnify against any loss, liability or expense incurred by the Trustee through the Trustee's own willful misconduct or negligence.

The obligations of the Issuer under this Section 8.07 shall survive the satisfaction and discharge of this Indenture or the earlier resignation or removal of the Trustee.

To secure the payment obligations of the Issuer in this Section 8.07, the Trustee shall have a Lien prior to the Notes on all money or property held or collected by the Trustee. Such Lien shall survive the satisfaction and discharge of this Indenture.

When the Trustee incurs expenses or renders services after an Event of Default specified in Section 7.01(5), (6) or (7) hereof occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

SECTION 8.08. Replacement of Trustee. A resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 8.08. The Trustee may resign in writing at any time and be discharged from the trust hereby created by so notifying the Issuer. The Holders of a majority in principal amount of the then outstanding Notes may remove the Trustee by so notifying the Trustee and the Issuer in writing. The Issuer may remove the Trustee if:

(a) the Trustee fails to comply with Section 8.10 hereof or Section 310 of the Trust Indenture Act;

(b) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;

(c) a custodian or public officer takes charge of the Trustee or its property; or

(d) the Trustee becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Issuer shall promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in principal amount of the then outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Issuer.

If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee (at the Issuer's expense), the Issuer or the Holders of at least 10% in aggregate principal amount of the then outstanding Notes may petition any court of competent jurisdiction for the appointment of a successor Trustee.

If the Trustee, after written request by any Holder who has been a Holder for at least six months, fails to comply with Section 8.10 hereof, such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Issuer. Thereupon, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to Holders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee; provided all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 8.07 hereof. Notwithstanding replacement of the Trustee pursuant to this Section 8.08, the Issuer's obligations under Section 8.07 hereof shall continue for the benefit of the retiring Trustee.

SECTION 8.09. Successor Trustee by Merger, etc. If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act shall be the successor Trustee.

SECTION 8.10. Eligibility; Disqualification. There shall at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has, together with its parent, a combined capital and surplus of at least $50,000,000 as set forth in its most recent published annual report of condition.

This Indenture shall always have a Trustee who satisfies the requirements of Trust Indenture Act Sections 310(a)(1), (2) and (5). The Trustee is subject to Trust Indenture Act Section 310(b).

SECTION 8.11. Preferential Collection of Claims Against Issuer. The Trustee is subject to Trust Indenture Act Section 311(a), excluding any creditor relationship listed in Trust Indenture Act Section 311(b). A Trustee who has resigned or been removed shall be subject to Trust Indenture Act Section 311(a) to the extent indicated therein.

ARTICLE IX

LEGAL DEFEASANCE AND COVENANT DEFEASANCE

SECTION 9.01. Option to Effect Legal Defeasance or Covenant Defeasance. The Issuer may, at its option and at any time, elect to have either Section 9.02 or 9.03 hereof applied to all outstanding Notes upon compliance with the conditions set forth below in this Article IX.

SECTION 9.02. Legal Defeasance and Discharge. Upon the Issuer's exercise under Section 9.01 hereof of the option applicable to this Section 9.02, the Issuer shall, subject to the satisfaction of the conditions set forth in Section 9.04 hereof, be deemed to have been discharged from their Obligations with respect to all outstanding Notes (including their Obligations under the Security Documents with respect to the Notes Obligations) on the date the conditions set forth below are satisfied ("Legal Defeasance"). For this purpose, Legal Defeasance means that the Issuer shall be deemed to have paid and

discharged the entire Indebtedness represented by the outstanding Notes, which shall thereafter be deemed to be "outstanding" only for the purposes of Section 9.05 hereof and the other Sections of this Indenture referred to in (a) and (b) below, and to have satisfied all its other Obligations under such Notes and this Indenture (and the Trustee, on demand of and at the expense of the Issuer, shall execute proper instruments acknowledging the same), except for the following provisions which shall survive until otherwise terminated or discharged hereunder:

(a) the rights of Holders of Notes to receive payments in respect of the principal of, premium, if any, and interest on the Notes when such payments are due solely out of the trust created pursuant to this Indenture referred to in Section 9.04 hereof;

(b) the Issuer's obligations with respect to Notes concerning issuing temporary Notes, registration of such Notes, mutilated, destroyed, lost or stolen Notes and the maintenance of an office or agency for payment and money for security payments held in trust;

(c) the rights, powers, trusts, duties and immunities of the Trustee, and the Issuer's obligations in connection therewith; and

(d) this Section 9.02.

If the Issuer exercises under Section 9.01 the option applicable to this Section 9.02, subject to satisfaction of the conditions set forth in Section 9.04 hereof, payment of the Notes may not be accelerated because of an Event of Default under clauses (3), (4), (5), (6) and (7) of Section 7.01. Subject to compliance with this Article IX, the Issuer may exercise its option under this Section 9.02 notwithstanding the prior exercise of its option under Section 9.03 hereof.

SECTION 9.03. Covenant Defeasance. Upon the Issuer's exercise under Section 9.01 hereof of the option applicable to this Section 9.03, the Issuer shall, subject to the satisfaction of the conditions set forth in Section 9.04 hereof, be released from their obligations under the covenants contained in Sections 5.03, 5.05, 5.06, 5.07, 5.09, 5.10 and 5.13 and from the applicability of clauses (3) and (4) of Section 6.01 hereof with respect to the outstanding Notes on and after the date the conditions set forth in Section 9.04 hereof are satisfied ("Covenant Defeasance"), and the Notes shall thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Notes shall not be deemed outstanding for accounting purposes). For this purpose, Covenant Defeasance means that, with respect to the outstanding Notes, the Issuer may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under Section 7.01 hereof, but, except as specified above, the remainder of this Indenture and such Notes shall be unaffected thereby. In addition, upon the Issuer's exercise under Section 9.01 hereof of the option applicable to this Section 9.03 hereof, subject to the satisfaction of the conditions set forth in Section 9.04 hereof, Sections 7.01(3) (solely with respect to the covenants that are released upon a Covenant Defeasance), 7.01(5), 7.01(6) and 7.01(7) hereof shall not constitute Events of Default.

SECTION 9.04. Conditions to Legal or Covenant Defeasance. The following shall be the conditions to the application of either Section 9.02 or 9.03 hereof to the outstanding Notes:

In order to exercise either Legal Defeasance or Covenant Defeasance with respect to the Notes:

(a) the Issuer must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders of the Notes, cash in U.S. dollars, Government Securities, or a combination thereof, in such amounts as will be sufficient, in the opinion of a nationally recognized firm of independent public accountants, to pay the principal amount of, premium, if any, and interest due on the Notes on the stated maturity date or on the Redemption Date, as the case may be, of such principal amount, premium, if any, or interest on such Notes and the Issuer must specify whether such Notes are being defeased to maturity or to a particular Redemption Date.

(b) in the case of Legal Defeasance, the Issuer shall have delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that, subject to customary assumptions and exclusions,

(i) the Issuer has received from, or there has been published by, the United States Internal Revenue Service a ruling, or

(ii) since the issuance of the Notes, there has been a change in the applicable U.S. federal income tax law,

in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, subject to customary assumptions and exclusions, the Holders of the Notes will not recognize income, gain or loss for U.S. federal income tax purposes, as applicable, as a result of such Legal Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(c) in the case of Covenant Defeasance, the Issuer shall have delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that, subject to customary assumptions and exclusions, the Holders of the Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Covenant Defeasance and will be subject to such tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(d) no Default (other than that resulting from borrowing funds to be applied to make such deposit and any similar and simultaneous deposit relating to other indebtedness, and in each case, the granting of Liens in connection therewith) shall have occurred and be continuing on the date of such deposit;

(e) the Issuer shall have delivered to the Trustee an Officer's Certificate stating that the deposit was not made by the Issuer with the intent of defeating, hindering, delaying or defrauding any creditors of the Issuer; and

(f) the Issuer shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel (which Opinion of Counsel may be subject to customary assumptions and exclusions) each stating that all conditions precedent provided for or relating to the Legal Defeasance or the Covenant Defeasance, as the case may be, have been complied with.

SECTION 9.05. Deposited Money and Government Securities to Be Held in Trust; Other Miscellaneous Provisions. Subject to Section 9.06 hereof, all money and Government Securities

(including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 9.05, the "Trustee") pursuant to Section 9.04 hereof in respect of the outstanding Notes shall be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal, premium and interest, but such money need not be segregated from other funds except to the extent required by law.

The Issuer shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or Government Securities deposited pursuant to Section 9.04 hereof or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the outstanding Notes. Anything in this Article IX to the contrary notwithstanding, the Trustee shall deliver or pay to the Issuer from time to time upon the request of the Issuer any money or Government Securities held by it as provided in Section 9.04 hereof which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 9.04(a) hereof), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

SECTION 9.06. Repayment to Issuer. Subject to any applicable abandoned property law, any money deposited with the Trustee or any Paying Agent, or then held by the Issuer, in trust for the payment of the principal of, premium, if any, or interest on any Note and remaining unclaimed for two years after such principal, and premium, if any, or interest has become due and payable shall be paid to the Issuer on its request or (if then held by the Issuer) shall be discharged from such trust; and the Holder of such Note shall thereafter look only to the Issuer for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Issuer as trustee thereof, shall thereupon cease.

SECTION 9.07. Reinstatement. If the Trustee or Paying Agent is unable to apply any United States dollars or Government Securities in accordance with Section 9.02 or 9.03 hereof, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Issuer's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 9.02 or 9.03 hereof until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 9.02 or 9.03 hereof, as the case may be; provided that, if the Issuer makes any payment of principal of, premium, if any, or interest on any Note following the reinstatement of its obligations, the Issuer shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

ARTICLE X

AMENDMENT, SUPPLEMENT AND WAIVER

SECTION 10.01. Without Consent of Holders of Notes. Notwithstanding Section 10.02 hereof, the Issuer and the Trustee (or the Collateral Agent, as applicable) may amend or supplement this Indenture, the Notes, any Security Document or the Intercreditor Agreement without the consent of any Holder:

(a) to cure any ambiguity, omission, mistake, defect or inconsistency;

(b) to provide for uncertificated Notes of such series in addition to or in place of Definitive Notes;

(c) to comply with Section 6.01 hereof;

(d) to provide for the assumption of the Issuer's obligations to the Holders;

(e) to make any change that would provide any additional rights or benefits to the Holders or that does not adversely affect the legal rights under this Indenture, the Notes, the Security Documents or the Intercreditor Agreement of any such Holder;

(f) to add covenants for the benefit of the Holders or to surrender any right or power conferred upon the Issuer;

(g) to comply with requirements of the SEC in order to effect or maintain the qualification of this Indenture under the Trust Indenture Act;

(h) to evidence and provide for the acceptance and appointment under this Indenture of a successor Trustee hereunder pursuant to the requirements hereof;

(i) to make any amendment to the provisions of this Indenture relating to the transfer and legending of Notes as permitted by this Indenture, including, without limitation to facilitate the issuance and administration of the Notes; provided, however, that (i) compliance with this Indenture as so amended would not result in Notes being transferred in violation of the Securities Act or any applicable securities law and (ii) such amendment does not materially and adversely affect the rights of Holders to transfer Notes;

(j) to add or release Collateral from, or subordinate, the Lien of the Security Documents only as expressly set forth in this Indenture, the Security Documents or the Intercreditor Agreement; and

(k) to mortgage, pledge, hypothecate or grant any other Lien in favor of the Trustee or the Collateral Agent for the benefit of the Holders of the Notes, as additional security for the payment and performance of all or any portion of the Notes Obligations, on any property or assets, including any which are required to be mortgaged, pledged or hypothecated, or on which a Lien is required to be granted to or for the benefit of the Trustee or the Collateral Agent pursuant to this Indenture, any of the Security Documents or otherwise.

Upon the request of the Issuer accompanied by a resolution of its board of directors authorizing the execution of any such amended or supplemental indenture, and upon receipt by the Trustee of the documents described in Section 8.02 hereof, the Trustee shall join with the Issuer in the execution of any amended or supplemental indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall have the right, but not be obligated to, enter into such amended or supplemental indenture that affects its own rights, duties or immunities under this Indenture or otherwise.

SECTION 10.02. With Consent of Holders of Notes. Except as provided below in this Section 10.02, the Issuer and the Trustee (or the Collateral Agent, as applicable) may amend or supplement this Indenture, the Notes, the Intercreditor Agreement or any Security Documents with the consent of the Holders of at least a majority in principal amount of the Notes then outstanding voting as a single class (including consents obtained in connection with a tender offer or exchange offer for, or purchase of,

the Notes). Subject to Sections 7.04 and 7.08 hereof, any existing Default or Event of Default (other than a Default or Event of Default in the payment of the principal of, premium, if any, or interest on the Notes, except a payment default resulting from an acceleration that has been rescinded) or compliance with any provision of this Indenture, the Notes, the Intercreditor Agreement or any Security Documents may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes voting as a single class (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes). Section 2.08 hereof, Section 2.09 hereof and Section 2.14 hereof shall determine which Notes are considered to be "outstanding" for the purposes of this Section 10.02.

Upon the request of the Issuer accompanied by a resolution of its board of directors authorizing the execution of any such amended or supplemental indenture, and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders of Notes as aforesaid, and upon receipt by the Trustee of the documents described in Section 8.02 hereof, the Trustee shall join with the Issuer in the execution of such amended or supplemental indenture unless such amended or supplemental indenture directly affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such amended or supplemental indenture.

It shall not be necessary for the consent of the Holders of Notes under this Section 10.02 to approve the particular form of any proposed amendment or waiver, but it shall be sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under this Section 10.02 becomes effective, the Issuer shall mail to the Holders of Notes affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Issuer to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amended or supplemental indenture or waiver.

Without the consent of each affected Holder of Notes, an amendment or waiver under this Section 10.02 may not, with respect to any Notes held by a non-consenting Holder:

(a) reduce the principal amount of such Notes whose Holders must consent to an amendment, supplement or waiver;

(b) reduce the principal amount of or change the fixed final maturity of any such Note or alter or waive the provisions with respect to the redemption of such Note;

(c) reduce the rate of or change the time for payment of interest on any Note;

(d) waive a Default in the payment of principal of or premium, if any, or interest on the Notes (except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the Notes and a waiver of the payment default that resulted from such acceleration) or in respect of a covenant or provision contained in this Indenture which cannot be amended or modified without the consent of each Holder affected thereby;

(e) make any Note payable in money or a currency other than that stated therein;

(f) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of Holders to receive payments of principal of or premium, if any, or interest on the Notes;

(g) make any change in these amendment and waiver provisions;

(h) impair the right of any Holder to receive payment of principal of, or interest on such Holder's Notes on or after the due dates therefor or to institute suit for the enforcement of any payment on or with respect to such Holder's Notes;

(i) amend, supplement, waive or modify the provisions of this Indenture dealing with the Security Documents or application of Runoff Proceeds in any manner, in each case that would subordinate the Lien of the Collateral Agent to the Liens securing any other Obligations (other than as contemplated under clause (j) of Section 10.01) or otherwise release any material portion of the Collateral, in each case other than in accordance with this Indenture, the Security Documents and the Intercreditor Agreement; or

(j) to amend the definition of Runoff Proceeds, Runoff Proceeds Distribution and Section 4.02.

In addition, without the consent of the Holders of at least two-thirds in aggregate principal amount of Notes then outstanding, no amendment, supplement or waiver may modify Sections 5.02, 5.03, 5.07, 5.08, 5.10 and 5.13 of this Indenture.

SECTION 10.03. Compliance with Trust Indenture Act. Every amendment or supplement to this Indenture or the Notes shall be set forth in an amended or supplemental indenture that complies in all material respects with the Trust Indenture Act as then in effect.

SECTION 10.04. Revocation and Effect of Consents. Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Note is a continuing consent by the Holder of a Note and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, any such Holder of a Note or subsequent Holder of a Note may revoke the consent as to its Note if the Trustee receives written notice of revocation before the date the waiver, supplement or amendment becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder.

The Issuer may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to consent to any amendment, supplement, or waiver. If a record date is fixed, then, notwithstanding the preceding paragraph, those Persons who were Holders at such record date (or their duly designated proxies), and only such Persons, shall be entitled to consent to such amendment, supplement, or waiver or to revoke any consent previously given, whether or not such Persons continue to be Holders after such record date. No such consent shall be valid or effective for more than 120 days after such record date unless the consent of the requisite number of Holders has been obtained.

SECTION 10.05. Notation on or Exchange of Notes. The Trustee may but shall not be obligated to place an appropriate notation about an amendment, supplement or waiver on any Note thereafter authenticated. The Issuer in exchange for all Notes may but shall not be obligated to issue and the Trustee shall, upon receipt of an Authentication Order, authenticate new Notes that reflect the amendment, supplement or waiver.

Failure to make the appropriate notation or issue a new Note shall not affect the validity and effect of such amendment, supplement or waiver.

SECTION 10.06. Trustee to Sign Amendments, etc. The Trustee shall sign any amendment, supplement or waiver authorized pursuant to this Article X if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. The Issuer may not sign an

amendment, supplement or waiver until the board of directors (or similar governing body) approves it. In executing any amendment, supplement or waiver, the Trustee shall be entitled to receive, and (subject to Section 8.01 hereof) shall be fully protected in relying upon, in addition to the documents required by Section 13.04 hereof, an Officer's Certificate and an Opinion of Counsel stating that the execution of such amended or supplemental indenture is authorized or permitted by this Indenture and that such amendment, supplement or waiver is the legal, valid and binding obligation of the Issuer, enforceable against them in accordance with its terms, subject to customary exceptions, and complies with the provisions hereof (including Section 10.03).

ARTICLE XI

SATISFACTION AND DISCHARGE

SECTION 11.01. Satisfaction and Discharge. This Indenture shall be discharged and shall cease to be of further effect as to all Notes, when either:

(a) all Notes heretofore authenticated and delivered, except lost, stolen or destroyed Notes which have been replaced or paid and Notes for whose payment money has heretofore been deposited in trust, have been delivered to the Trustee for cancellation; or

(b) (A) all Notes not heretofore delivered to the Trustee for cancellation have become due and payable by reason of the making of a notice of redemption or otherwise, will become due and payable within one year or are to be called for redemption and redeemed within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Issuer, and the Issuer has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders of the Notes, cash in U.S. dollars, Government Securities, or a combination thereof, in such amounts as will be sufficient without consideration of any reinvestment of interest to pay and discharge the entire indebtedness on the Notes not heretofore delivered to the Trustee for cancellation for principal, premium, if any, and accrued interest to the date of maturity or redemption;

(B) no Default (other than that resulting from borrowing funds to be applied to make such deposit and any similar and simultaneous deposit relating to other Indebtedness to the extent such Indebtedness is simultaneously being discharged or repaid and the granting of Liens in connection therewith) with respect to this Indenture or the Notes shall have occurred and be continuing on the date of such deposit or shall occur as a result of such deposit and such deposit will not result in a breach or violation of, or constitute a default under any other material agreement or instrument to which the Issuer is a party or by which the Issuer is bound;

(C) the Issuer has paid or caused to be paid all sums payable by it under this Indenture; and

(D) the Issuer has delivered irrevocable instructions to the Trustee to apply the deposited money toward the payment of the Notes at maturity or the Redemption Date, as the case may be.

In addition, the Issuer shall deliver an Officer's Certificate and an Opinion of Counsel to the Trustee stating that all conditions precedent to satisfaction and discharge have been satisfied.

Notwithstanding the satisfaction and discharge of this Indenture, if money shall have been deposited with the Trustee pursuant to subclause (A) of clause (b) of this Section 11.01, the provisions of Section 11.02 and Section 9.07 hereof shall survive.

SECTION 11.02. Application of Trust Money. Subject to the provisions of Section 9.07 hereof, all money deposited with the Trustee pursuant to Section 11.01 hereof shall be held in trust and applied by it, in accordance with the provisions of the Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Issuer acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal (and premium, if any) and interest for whose payment such money has been deposited with the Trustee; but such money need not be segregated from other funds except to the extent required by law.

If the Trustee or Paying Agent is unable to apply any money or Government Securities in accordance with Section 11.01 hereof by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Issuer's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 11.01 hereof; provided that if the Issuer has made any payment of principal of, premium, if any, or interest on any Notes because of the reinstatement of its obligations, the Issuer shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or Government Securities held by the Trustee or Paying Agent.

ARTICLE XII

SECURITY

SECTION 12.01. Security Documents. The payment of the principal of and interest (including without limitation, any PIK Interest) and premium, if any, on the Notes when due, whether at maturity, by acceleration, repurchase, redemption or otherwise and whether by the Issuer pursuant to the Notes, the payment of all other Notes Obligations and the performance of all other Notes Obligations are secured as provided in the Security Documents which the Issuer has entered into and will be secured by Security Documents hereafter delivered as required or permitted by this Indenture. The Issuer shall comply with all provisions and covenants, make all filings (including filings of continuation statements and amendments to Uniform Commercial Code financing statements that may be necessary to continue the effectiveness of such Uniform Commercial Code financing statements) and take all other actions as are required by the Security Documents or necessary to maintain (at the sole cost and expense of the Issuer) the security interest created by the Security Documents in the Collateral (other than with respect to any Collateral the security interest in which is not required to be perfected or maintained under the Security Documents) as a perfected security interest. The Issuer shall deliver an Opinion of Counsel to the Trustee within 30 calendar days following the end of each annual period beginning with the annual period beginning on [ ], to the effect that all actions required to maintain the Lien of the Security Documents with respect to items of Collateral that may be perfected solely by the filing of financing statements under the Uniform Commercial Code have been taken.

SECTION 12.02. Collateral Agent.

(a) The Collateral Agent shall have all the rights and protections provided in the Security Documents and the Intercreditor Agreement and shall have no responsibility to exercise any discretionary power or right provided in any Security Document except as expressly required pursuant to the Security Documents or the Intercreditor Agreement or to ensure the existence, genuineness, value or protection of any Collateral or to ensure the legality, enforceability, effectiveness or sufficiency of the Secu-

rity Documents or the creation, perfection, priority, sufficiency or protection of any Lien or any defect or deficiency as to any such matters.

(b) The Trustee is authorized and directed to (i) enter into the Intercreditor Agreement, (ii) acknowledge the Collateral Agent as the Collateral Agent and to authorize the Collateral Agent (and the Holders hereby authorize the Collateral Agent) to enter into the Security Documents for the benefit of the Holders, (iii) bind the Holders on the terms as set forth in the Security Documents and the Intercreditor Agreement and (iv) perform and observe its obligations and exercise its rights (and the Holders hereby authorize the Collateral Agent to perform and observe its obligations and exercise its rights) under the Intercreditor Agreement and the Security Documents.

(c) Subject to Section 8.01, neither the Trustee nor the Collateral Agent nor any of their officers, directors, employees, attorneys or agents will be responsible or liable for the existence, genuineness, value or protection of any Collateral, for the legality, enforceability, effectiveness or sufficiency of the Security Documents, for the creation, perfection, priority, sufficiency or protection of any Lien or any defect or deficiency as to any such matters.

SECTION 12.03. Authorization of Actions to Be Taken.

(a) Each Holder of Notes, by its acceptance thereof, consents and agrees to the terms of each Security Document and the Intercreditor Agreement, as originally in effect and as amended, restated, amended and restated, renewed, modified, supplemented or replaced from time to time in accordance with its terms or the terms of this Indenture, authorizes and directs the Trustee to authorize the Collateral Agent to enter into the Security Documents for the benefit of the Holders, authorizes and empowers the Trustee and the Collateral Agent to enter into each of the Security Agreements and the Intercreditor Agreement and authorizes and empowers the Trustee and the Collateral Agent to bind the Holders of Notes pursuant to the terms of the Intercreditor Agreement and to perform their respective obligations and exercise their respective rights and powers thereunder.

(b) The Trustee is authorized and empowered to receive for the benefit of the Holders of Notes any funds collected or distributed under the Security Documents to which the Trustee is entitled pursuant to the terms of the Intercreditor Agreement and to make further distributions of such funds to the Holders of Notes according to the provisions of this Indenture and the Intercreditor Agreement.

(c) Subject to the Intercreditor Agreement, the Trustee is authorized and empowered to institute and maintain, or direct the Collateral Agent to institute and maintain, such suits and proceedings as it may deem expedient to protect or enforce the Liens of the Security Documents or to prevent any impairment of Collateral by any acts that may be unlawful or in violation of the Security Documents.

SECTION 12.04. Release of Collateral; Substitution.

(a) Liens granted pursuant to the Security Documents securing the Notes Obligations shall automatically terminate and/or be released in full all without delivery of any instrument or performance of any act by any party as of the date upon which (i) all the Notes Obligations and this Indenture (other than contingent or unliquidated obligations or liabilities not then due) have been paid in full in cash or immediately available funds or (ii) a Legal Defeasance or Covenant Defeasance under Article VIX or a discharge in accordance with Article XI has occurred.

Upon the receipt of an Officer's Certificate from the Issuer, as described in Section 12.04(b) below and any necessary or proper instruments of termination, satisfaction or release prepared by the Issuer, the Collateral Agent shall execute, deliver or acknowledge such instruments or releases to

evidence the release of any Collateral permitted to be released pursuant to this Indenture or the Security Documents or the Intercreditor Agreement.

(b) Notwithstanding anything herein to the contrary, in connection with (x) any release of Collateral pursuant to Section 12.04(a) above, such Collateral may not be released from the Lien and security interest created by the Security Documents and (y) any release of Collateral pursuant to Section 12.04(a), the Collateral Agent shall not be required to execute, deliver or acknowledge any instruments of termination, satisfaction or release unless, in each case, an Officer's Certificate and Opinion of Counsel certifying that all conditions precedent, including, without limitation, this Section 12.04, have been met and stating under which of the circumstances set forth in Section 12.04(a) above the Collateral is being released have been delivered to the Collateral Agent on or prior to the date of such release or, in the case of clause (y) above, the date on which the Collateral Agent executes any such instrument. The Trustee shall be entitled to receive and rely on Officer's Certificates and Opinions of Counsel delivered to the Collateral Agent under this Section 12.04(b).

(c) Notwithstanding anything to the contrary contained in the Notes Documentation or any Security Document upon the Insurance Book Closing, any Lien in the equity of WMMRC held by the Collateral Agent shall be deemed automatically released.

SECTION 12.05. Powers Exercisable by Receiver or Trustee. In case the Collateral shall be in the possession of a receiver or trustee, lawfully appointed, the powers conferred in this Article XII upon the Issuer with respect to the release, sale or other disposition of such property may be exercised by such receiver or trustee, and an instrument signed by such receiver or trustee shall be deemed the equivalent of any similar instrument of the Issuer or of any officer or officers thereof required by the provisions of this Article XII; and if the Trustee or the Collateral Agent shall be in the possession of the Collateral under any provision of this Indenture, then such powers may be exercised by the Trustee or the Collateral Agent, as the case may be.

SECTION 12.06. No Fiduciary Duties; Collateral. The Trustee shall have no duty as to any Collateral in its possession or control or in the possession or control of any agent or bailee or any income thereon or as to preservation of rights against prior parties or any other rights pertaining thereto and the Trustee shall not be responsible for filing any financing or continuation statements or recording any documents or instruments in any public office at any time or times or otherwise perfecting or maintaining the perfection of any security interest in the Collateral. The Trustee shall not be liable or responsible for any loss or diminution in the value of any of the Collateral, by reason of the act or omission of any carrier, forwarding agency or other agent or bailee selected by the Trustee in good faith.

SECTION 12.07. Intercreditor Agreement Controls. Upon the Trustee's entry into the Intercreditor Agreement, the Holders of the Notes and the Trustee will be subject to and bound by the provisions of the Intercreditor Agreement. Notwithstanding anything herein to the contrary, (i) the liens and security interests granted to the Collateral Agent pursuant to the Security Documents and all rights and obligations of the Trustee hereunder are expressly subject to the Intercreditor Agreement and (ii) the exercise of any right or remedy by the Trustee hereunder is subject to the limitations and provisions of the Intercreditor Agreement. Subject to Section 7.16 and except for Article VIII, in the event of any conflict or inconsistency between the terms of the Intercreditor Agreement and the terms of this Indenture, the terms of the Intercreditor Agreement shall govern.

ARTICLE XIII

MISCELLANEOUS

SECTION 13.01. Trust Indenture Act Controls. If any provision of this Indenture limits, qualifies or conflicts with the duties imposed by Trust Indenture Act Section 318(c), the imposed duties shall control.

SECTION 13.02. Notices. Any notice or communication by the Issuer or the Trustee to the others is duly given if in writing and delivered in person or mailed by first-class mail (registered or certified, return receipt requested), fax or overnight air courier guaranteeing next day delivery, to the others' address:

If to the Issuer:

Washington Mutual, Inc.
1201 Third Avenue, Suite 3000
Seattle, Washington 98101
Attention: General Counsel

Telephone No.: (206) 432-8731
Facsimile No: (206) 432-8879
Email: chad.smith@wamuinc.net

with a copy to:

Weil Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153
Attention: Todd R. Chandler

Telephone No.: (212) 310-8000
Facsimile No: (212) 310-8007
Email: todd.chandler@weil.com

If to the Trustee:

Law Debenture Trust Company of New York
400 Madison Avenue, 4th Floor
New York, NY 10017
Attention: Managing Director

Telephone No.: (212) 750-6474
Facsimile No: (212) 750-1361
Email: newyork@lawdeb.com

The Issuer or the Trustee, by notice to the others, may designate additional or different addresses for subsequent notices or communications.

All notices and communications (other than those sent to Holders) shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; five calendar days after be-

ing deposited in the mail, postage prepaid, if mailed by first-class mail; when receipt acknowledged, if faxed; and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery; provided that any notice or communication delivered to the Trustee shall be deemed effective upon actual receipt thereof.

Any notice or communication to a Holder shall be mailed by first-class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the Note Register kept by the Registrar. Any notice or communication shall also be so mailed to any Person described in Trust Indenture Act Section 313(c), to the extent required by the Trust Indenture Act. Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders.

If a notice or communication is mailed in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it.

If the Issuer mails a notice or communication to Holders, it shall mail a copy to the Trustee and each Agent at the same time.

SECTION 13.03. Communication by Holders of Notes with Other Holders of Notes. Holders may communicate pursuant to Trust Indenture Act Section 312(b) with other Holders with respect to their rights under this Indenture or the Notes. The Issuer, the Trustee, the Registrar and anyone else shall have the protection of Trust Indenture Act Section 312(c).

SECTION 13.04. Certificate and Opinion as to Conditions Precedent.

(a) Upon any request or application by the Issuer to the Trustee to take any action under this Indenture, the Issuer shall furnish to the Trustee an Officer's Certificate of the Issuer in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 13.05 hereof) stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been satisfied; and

(b) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 13.05 hereof) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied.

SECTION 13.05. Statements Required in Certificate or Opinion. Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than a certificate provided pursuant to Section 5.06 hereof or Trust Indenture Act Section 314(a)(4)) shall comply with the provisions of Trust Indenture Act Section 314(e) and shall include:

(a) a statement that the Person making such certificate or opinion has read such covenant or condition;

(b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(c) a statement that, in the opinion of such Person, he or she has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with (and, in the case of an Opinion of Counsel, may be limited to reliance on an Officer's Certificate, certificates of public officials or reports or opinions of experts as to matters of fact); and

(d) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been complied with.

SECTION 13.06. Rules by Trustee and Agents. The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions.

SECTION 13.07. No Personal Liability of Directors, Officers, Employees and Stockholders. No past, present or future director, officer, employee, incorporator or stockholder of the Issuer or any of their parent companies shall have any liability for any obligations of the Issuer under the Notes or this Indenture or for any claim based on, in respect of, or by reason of such obligations or their creation. Each Holder by accepting Notes waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

SECTION 13.08. Governing Law. THIS INDENTURE AND THE NOTES WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

SECTION 13.09. Waiver of Jury Trial. THE ISSUER AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTIONS CONTEMPLATED HEREBY.

SECTION 13.10. Force Majeure. In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations under this Indenture arising out of or caused by, directly or indirectly, forces beyond its reasonable control, including without limitation strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software or hardware) services.

SECTION 13.11. No Adverse Interpretation of Other Agreements. This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Issuer or its Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

SECTION 13.12. Successors. All agreements of the Issuer in this Indenture and the Notes shall bind its successors. All agreements of the Trustee in this Indenture shall bind its successors.

SECTION 13.13. Severability. In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

SECTION 13.14. Counterpart Originals. The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

SECTION 13.15. Table of Contents, Headings, etc. The Table of Contents, Cross-Reference Table and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

ARTICLE XIV

OTHER TRANSFER RESTRICTIONS

SECTION 14.01. Definitions. As used in this Article XIV, the following capitalized terms shall have the following respective meanings (and any references to any portions of Treasury Regulation section 1.382-2T shall include any successor provisions):

(a) "Acquire" means the acquisition, directly or indirectly, of ownership of Notes by any means, including, without limitation, (i) the exercise of any rights under any option, warrant, convertible security, pledge or other security interest or similar right to acquire Notes, (ii) the entering into of any swap, hedge or other arrangement that results in the acquisition of any of the economic consequences of ownership of Notes or (iii) any other acquisition or transaction treated under the applicable rules under Section 382 of the Code as a direct or indirect acquisition (including the acquisition of an ownership interest in a Substantial Holder), but shall not include the acquisition of any such rights unless, as a result, the acquirer would be considered an owner within the meaning of the tax laws. The terms "Acquires" and "Acquisition" shall have the same meaning.

(b) "Beneficial Interest" shall be determined in accordance with applicable rules under section 382 of the Code treating the Notes as stock (without regard to the rule that treats stock of an entity as to which the constructive ownership rules apply as no longer owned by that entity) and, thus, to the extent provided in those rules, from time to time shall include, without limitation, (A) direct and indirect ownership (e.g., a holding company would be considered to beneficially own all Notes owned or acquired by its subsidiaries), (B) ownership by a Holder's family members, (C) any group of persons acting pursuant to a formal or informal understanding to make a coordinated acquisition of the Notes, and (D) to the extent set forth in Treasury Regulation section 1.382-4, the ownership of an option or right to acquire the Notes.

(c) "Board" means the Board of Directors of the Issuer.

(d) "Code" means the Internal Revenue Code of 1986, as amended from time to time.

(e) "Person" means an individual, corporation, estate, trust, association, limited liability company, partnership, joint venture or similar organization or "entity" within the meaning of Treasury Regulation section 1.382-3 (including, without limitation, any group of Persons treated as a single entity under such regulation).

(f) "Plan" means the Seventh Amended Joint Plan of Washington Mutual, Inc. and WMI Investment Corp., pursuant to Chapter 11 of the Bankruptcy Code.

(g) "Prohibited Acquisition" means any purported Acquisition of Notes to the extent that such Acquisition is prohibited and/or void or is treated as such under Sections 14.02 or 14.03 hereof.

(h) "Restriction Release Date" means the date as of which the restrictions under Article VI of the Issuer's Amended and Restated Articles of Incorporation no longer apply with respect to the common stock of the Issuer.

(i) "Substantial Holder" means a Person (including, without limitation, any group of Persons treated as a single "entity" within the meaning of Treasury Regulation Section 1.382-3) (i) holding Notes, whether after giving effect to the Plan or thereafter, having a Beneficial Interest of at least

4.75% of the then outstanding principal amount of the Notes or (ii) that is a "Substantial Holder" with respect to the Issuer's "Corporation Securities" each within the meaning of Article VI of the Issuer's Amended and Restated Articles of Incorporation.

(j) "Treasury Regulation" means a Treasury regulation promulgated under the Code.

SECTION 14.02. Restriction on Transfer. To the fullest extent permitted by law, prior to the Restriction Release Date, no Person shall be permitted to make an Acquisition, whether in a single transaction or series of related transactions, and any such purported Acquisition will be *void ab initio* and the Notes, will not be registered in the name of the purported transferee, to the extent that after giving effect to such purported Acquisition (if known by the Issuer or the Trustee) (i) the purported transferee or any other Person by reason of the purported transferee's Acquisition would become a Substantial Holder or (ii) the Beneficial Interest of a Person that, prior to giving effect to the purported Acquisition, is a Substantial Holder would be increased. The preceding sentence is not intended to prevent the Notes from being DTC-eligible and shall not preclude any settlement of any transactions in the Notes entered into through a national securities exchange or an inter-dealer quotation system or delivered through DTC, but such transaction, if prohibited by the prior sentence, shall nonetheless be a Prohibited Acquisition.

SECTION 14.03. Deemed Representation. By Acquiring a Beneficial Interest in the Notes, any transferee of the Notes shall be deemed to have represented that (i) immediately before the Acquisition, it is not and by reason of its Acquisition it and any other person would not become a Substantial Holder and (ii) such transferee will comply with the provisions of this Article XIV, as applicable.

SECTION 14.04. Transfer Restriction Legend. Each Global Note shall bear an additional legend in substantially the following form:

> "THE ACQUISITION OF INTERESTS IN THIS GLOBAL SECURITY ARE SUBJECT TO OWNERSHIP RESTRICTIONS PURSUANT TO ARTICLE XIV OF THE INDENTURE. THE HOLDER OF THIS NOTE AGREES FOR THE BENEFIT OF THE COMPANY THAT THIS NOTE MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, (1) ONLY TO A PERSON WHO DOES NOT OWN AND WILL NOT OWN FOLLOWING SUCH TRANSFER 4.75% OR MORE OF THE CURRENT OUTSTANDING PRINCIPAL AMOUNT OF THE NOTES AND (2) ONLY IN COMPLIANCE WITH ARTICLE XIV OF THE INDENTURE."

SECTION 14.05. Disgorgement.

(a) If an Acquisition is made in violation of Sections 14.02 or 14.03 above or is otherwise a Prohibited Acquisition, until the Notes which are the subject of such Prohibited Acquisition (the "Excess Securities") are Acquired by another Person in an Acquisition that is not a Prohibited Acquisition, the purported transferee shall not be entitled with respect to such Excess Securities to any rights of ownership. Once the Excess Securities have been acquired in an Acquisition that is in accordance with Sections 14.02 and 14.03 and is not a Prohibited Acquisition, such Notes shall cease to be Excess Securities. The Issuer will deliver to the Trustee, promptly after any Officer becomes aware of any Excess Securities, notice of such Excess Securities. The Trustee will deliver to the Issuer, promptly after it becomes aware of any Excess Securities, notice of such Excess Securities.

(b) In the event that a Prohibited Acquisition has occurred, such Prohibited Acquisition and, if applicable, the recording of such Prohibited Acquisition, shall (except as limited by the last sentence of Section 14.02), to the fullest extent permitted by law, be *void ab initio* and have no legal effect. In the event that a Prohibited Acquisition has occurred, upon written demand by the Issuer, the pur-

ported transferee shall turn over or transfer or cause to be turned over or transferred any ownership interest in the Excess Securities, including any certificate or other evidence of ownership or beneficial interest (including any interest held thorough DTC) of the Excess Securities within the purported transferee's possession or control, together with any payments that were received by the purported transferee from the Issuer with respect to the Excess Securities (the "Prohibited Distributions"), to an agent designated by the Board (the "Agent").

(c) In the case of a Prohibited Acquisition described in this Article XIV, the Agent shall thereupon sell to a buyer or buyers, the Excess Securities transferred to it in one or more arm's-length transactions (including over a national securities exchange on which the Notes may be traded, if possible); provided, however, that the Agent, in its sole discretion, shall effect such sale or sales in an orderly fashion and shall not be required to effect any such sale within any specific time frame if, in the Agent's discretion, such sale or sales would disrupt the market for the Notes or otherwise would adversely affect the value of the Notes. If the purported transferee has resold the Excess Securities before receiving the Issuer's demand to surrender the Excess Securities to the Agent, the purported transferee shall be deemed to have sold the Excess Securities for the Agent, and shall be required, to the fullest extent permitted by law, to transfer to the Agent any Prohibited Distributions and proceeds of such sale, except to the extent that the Issuer grants written permission to the purported transferee to retain a portion of such sales proceeds not exceeding the amount that the purported transferee would have received from the Agent pursuant to Section 14.05(d) if the Agent, rather than the purported transferee, had resold the Excess Securities.

(d) The Agent shall apply any proceeds or any other amounts received by it in accordance with this Section 14.05 as follows:

(i) FIRST, such amounts shall be paid to the Agent to the extent necessary to cover its costs and expenses incurred in connection with its duties hereunder;

(ii) SECOND any remaining amounts shall be paid to the purported transferee, up to the amount paid by the purported transferee for the Excess Securities (or in the case of any Prohibited Acquisition by gift, devise or inheritance or any other Prohibited Acquisition without consideration, the fair market value as determined in good faith by the Board, which amount (or fair market value) shall be determined at the discretion of the Board); and

(iii) THIRD, any remaining amounts, subject to the limitations imposed by the following proviso, shall be paid to one or more organizations qualifying under section 501(c)(3) of the Code (or any comparable successor provision) ("Section 501(c)(3)") selected by the Board, provided, however, that if the Excess Securities (including any Excess Securities arising from a previous Prohibited Acquisition not sold by the Agent in a prior sale or sales) represent a 4.75% or greater Beneficial Interest of the then aggregate outstanding principal amount of Notes, then such remaining amounts shall be paid to two or more organizations qualifying under Section 501(c)(3) selected by the Board such that no organization qualifying under Section 501(c)(3) shall possess Notes 4.75% or greater of the then outstanding aggregate principal amount of the Notes.

The recourse of any purported transferee in respect of any Prohibited Acquisition shall be limited to the amount payable to the purported transferee pursuant to clause (ii) above. Except as may be required by law, in no event shall the proceeds of any sale of Excess Securities pursuant to this Section 14.05 inure to the benefit of the Issuer.

(e) If the purported transferee fails to surrender the Excess Securities (as applicable) or the proceeds of a sale thereof to the Agent within thirty (30) days from the date on which the Issuer makes a demand pursuant to this Section 14.05, then the Issuer shall use its commercially reasonable efforts to enforce the provisions hereof, including the institution of legal proceedings to compel the surrender.

SECTION 14.06. Information Request. At the request of the Issuer, any holder which is a beneficial, legal or record holder of Notes, and any proposed transferor or transferee and any Person controlling, controlled by or under common control with the proposed transferor or transferee, shall provide such information as the Issuer may reasonably request as may be necessary from time to time in order to determine compliance with this Article XIV. Any such information shall be kept confidential by the Issuer and may be disclosed only (i) as necessary for purposes of this Article XIV by the Issuer to its officers, employees and advisors, provided such personnel also agree to treat such information as confidential, (ii) if the Issuer is required to disclose such information under any applicable law, regulation, subpoena, court order or legal, regulatory or judicial process or the rules of any applicable regulatory agency or stock exchange, (iii) if such information was already in the Issuer's possession and did not come from a source that is reasonably known by the Issuer to be bound by a confidentiality obligation, (iv) if such information is publicly available or becomes available other than as a result of a disclosure by the Issuer in violation of the terms hereof, or (v) if such information is or becomes available to the Issuer on a non-confidential basis from another source that is not known by the Issuer to be bound by an obligation of confidentiality.

The Issuer shall have the power to make appropriate notations upon its Register and instruct any transfer agent, registrar, securities intermediary or depository with respect to the requirements of this Article XIV for any uncertificated Notes or Notes held in an indirect holding system, and the Issuer shall provide notice of the restrictions on transfer and ownership to holders of uncertificated Notes in accordance with applicable law.

The Board shall have the power to determine all matters necessary for determining compliance with this Article XIV, including, without limitation, determining (A) the identification of Substantial Holders, (B) whether an Acquisition is a Prohibited Acquisition, (C) the Beneficial Interest of any Substantial Holder or other Person, (D) the amount (or fair market value) due to a purported transferee pursuant to Section 14.05(d)(ii) of this Indenture, and (E) any other matters that the Board determines to be relevant. The good faith determination of the Board on such matters shall be conclusive and binding for the purposes of this Article XIV.

SECTION 14.07. Board Consent to Transfer. The restrictions set forth in Sections 14.02 and 14.03 shall not apply to a proposed Acquisition if the transferor or the transferee, upon providing at least fifteen (15) days prior written notice of such proposed Acquisition to the Board, obtains the written consent to the proposed Acquisition from a majority of the Board. The Board shall endeavor to inform the requesting party of its determination within ten (10) days after receiving such written notice; provided, however, that the failure of the Board to respond during such ten (10) day period shall not be deemed to be a consent to the Acquisition. As a condition to granting its consent, the Board may, in its discretion, require and/or obtain (at the expense of the transferor and/or transferee) such representations and/or agreements from the transferor and/or transferee, such opinions of counsel to be rendered by counsel approved by the Board, and such other advice, in each case as to such matters as the Board determines is appropriate. The Board may waive the restrictions imposed in this Article XIV, in whole or in part, in circumstances where it believes doing so would be beneficial the Issuer.

SECTION 14.08. No Liability. The Trustee and the Registrar shall have no liability for and shall have no duty to monitor compliance by Holders of Notes with this Article XIV. In the event, the Issuer notifies the Trustee that a Prohibited Acquisition has occurred, the Trustee and the Registrar will cooperate with the Issuer to facilitate the implementation of Section 14.05 hereof. In addition, to the extent that a Holder is in possession of Excess Securities, the Trustee and Registrar shall have no liability for continuing to extend the benefits of Holder to the Holders of Excess Securities.

[Signatures on following page]

WASHINGTON MUTUAL, INC.

By:
Name:
Title:

Law Debenture Trust Company of New York
as Trustee

By:
Name:
Title:

EXHIBIT A

[Face of Note]

[Insert the Global Note Legend, if applicable]

CUSIP [ ]

13% Senior Second Lien Note due 2030

No. ___ [$_____]

WASHINGTON MUTUAL, INC.

promises to pay, subject to the terms of the Indenture, to _____ or registered assigns, the principal sum [set forth on the Schedule of Exchanges of Interests in the Global Note attached hereto] [of _____ Dollars] ($_____) on [ ]

Interest Payment Dates: [ ]

Record Dates: [ ]

IN WITNESS HEREOF, the Issuer has caused this instrument to be duly executed.

Dated: [ ]

WASHINGTON MUTUAL, INC.

By:
Name:
Title:

This is one of the Notes referred to in the within-mentioned Indenture:

Dated: _____

[ ]
as Trustee

By:
Authorized Signatory

[Back of Note]

13% Senior Second Lien Note due 2030

Capitalized terms used herein shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. Interest. Washington Mutual, Inc., a Washington corporation (the "Issuer"), promises to pay, subject to the terms of the Indenture, interest on the principal amount of this Note at a rate per annum set forth below from the Issue Date until paid in full. The Issuer will pay interest on this Note quarterly in arrears on [ ], [ ], [ ] and [ ] of each year, commencing on [ ], or if any such day is not a Business Day, on the next succeeding Business Day (each, an "Interest Payment Date"), and no interest shall accrue on such payment for the intervening period. The Issuer will make each interest payment to the Holder of record of this Note on the immediately preceding [ ], [ ], [ ] and [ ] (each, a "Record Date"). Interest on this Note will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from and including the Issue Date. The Notes will mature on [ ], 2030. The Issuer will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law whether or not allowed) on overdue principal at the rate that is 2% higher than the rate then applicable to this Note; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace periods) at the rate then applicable to this Note to the extent lawful. Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months.

To the extent there are sufficient Runoff Proceeds Distributions on any Interest Payment Date to pay interest on the Notes in accordance with Section 4.02 of the Indenture, interest on this Note shall be paid entirely in cash ("Cash Interest"); provided to the extent there are insufficient Runoff Proceeds Distributions to pay interest on the Notes in accordance with Section 4.02 of the Indenture, interest shall be payable on such Interest Payment Date in cash to the extent of funds available for payment of cash payments and any excess interest payable shall be paid by increasing the principal amount of this Note or by issuing PIK Notes in an amount equal to such excess. The Issuer must notify the Trustee at least five (5) Business Days prior to any Interest Payment Date whether Cash Interest and/or a PIK Payment will be paid on such Interest Payment Date to the Holders of the Notes. The Trustee shall promptly deliver a corresponding notice to the Holder of this Note. The Trustee will, at the request of the Issuer, authenticate and deliver such PIK Notes for original issuance to such Holder of this Note on the relevant record date, as shown by the records of the Note Register. Following an increase in the principal amount of this Note as a result of a PIK Payment, this Note will bear interest on such increased principal amount from and after the date of such PIK Payment. Any PIK Notes will be dated as of the applicable Interest Payment Date and will bear interest from and after such date. All PIK Notes issued pursuant to a PIK Payment will mature on [ ], 2030 and will be governed by, and subject to the terms, provisions and conditions of, the Indenture and shall have the same rights and benefits as the Notes issued on the Issue Date. Any PIK Notes will be issued with the description "PIK" on the face of such PIK Note.

Interest on this Note and any PIK Notes will accrue at the rate of 13% per annum.

2. Method of Payment. The Issuer or the Trustee will pay interest on this Note to the Person who is the registered Holder of this Note at the close of business on the Record Date (whether or not a Business Day) next preceding the Interest Payment Date, even if this Note is canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Indenture with respect to defaulted interest. Cash payment of interest may be made by check mailed to the Holders at their addresses set forth in the Register, provided that all cash payments of principal, premium,

if any, and interest on, this Note will be made by wire transfer to a U.S. dollar account maintained by the payee with a bank in the United States if such Holder elects payment by wire transfer by giving written notice to the Trustee or the Paying Agent to such effect designating such account no later than 30 days immediately preceding the relevant due date for payment (or such other date as the Trustee may accept in its discretion). Such payment shall be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

3. Paying Agent and Registrar. Initially, Law Debenture Trust Company of New York, the Trustee under the Indenture, will act as Paying Agent and Registrar. The Issuer may change any Paying Agent or Registrar without notice to the Holders.

4. Indenture. The Issuer issued the Notes under a Senior Second Lien Notes Indenture, dated as of [ ] (the "Indenture"), among Washington Mutual, Inc. and the Trustee. This Note is one of a duly authorized issue of notes of the Issuer designated as its 13% Senior Second Lien Notes due 2030. The Notes and any PIK Notes issued under the Indenture shall be treated as a single class of securities under the Indenture. The terms of the Notes include those stated in the Indenture and those incorporated by reference into the Indenture from the Trust Indenture Act of 1939, as amended (the "Trust Indenture Act"). The Notes are subject to all such terms, and Holders are referred to the Indenture and such Act for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. Upon the Trustee's entry into the Indenture, the Holders of the Notes and the Trustee will be bound by the terms of the Indenture.

5. Optional Redemption. At any time the Notes may be redeemed or purchased (by the Issuer or any other Person), in whole or in part, at a redemption price equal to 100% of the principal amount of Notes redeemed and, without duplication, accrued and unpaid interest, if any, to the date of redemption (the "Redemption Date"), subject to the rights of Holders of Notes on the relevant Record Date to receive interest due on the relevant Interest Payment Date. Any redemption pursuant to this paragraph 5 shall be made pursuant to the provisions of Sections 3.01 through 3.06 of the Indenture.

6. Notice of Redemption. Subject to Section 3.03 of the Indenture, notice of redemption will be mailed by first-class mail at least 30 days but not more than 60 days before the Redemption Date to each Holder whose Notes are to be redeemed at its registered address. Notes and portions of the Notes in whole dollar ($1.00) denominations may be redeemed. On and after the Redemption Date, interest ceases to accrue on this Note or portions thereof called for redemption.

8. Collateral and Intercreditor Agreement. These Notes are secured by a security interest in the Collateral pursuant to certain security documents. The Liens securing the Notes are subject to the terms of the Intercreditor Agreement.

9. Limitation on the Issuer's Obligations. Notwithstanding any other provision of the Indenture, the Intercreditor Agreement, the Notes and the Security Documents to the contrary, the Holder of this Note agrees that it shall not have or take recourse (other than actions for specific performance under Section 7.04 of the Indenture) with respect to the Notes Documentation against the Issuer or its assets and property, or against WMMRC or the Owner or their respective assets and property (other than assets that were required to be transferred to the protected cell pursuant to the Insurance Book Closing), except (i) to the Collateral Account, (ii) if the Issuer fails to comply with its obligations pursuant to Sections 4.02(a), 4.02(b), 5.02 or 5.08, to the assets of the Issuer in an amount equal to the aggregate amount of any Runoff Proceeds or Runoff Proceeds Distributions that were not deposited into the Collateral Account, (iii) to the equity interests in and the excess assets of the Owner and the Trusts to the extent a Lien has been granted therein pursuant to Section 5.03(b) of the Indenture in favor of the Collateral

Agent and (iv) to the Owner or the Issuer for costs and expenses, including reasonable attorney's fees, related to the enforcement of Sections 4.01, 4.02, 4.03, 5.02, 5.03, 5.07, 5.08, 5.10 and 5.13 of the Indenture, if the Holders or the Trustee, as applicable, are the prevailing party in such enforcement action.

10. Denominations, Transfer, Exchange. The Notes are in registered form without coupons in whole dollar ($1.00) denominations and integral multiples of $1.00 rounded up to the nearest whole dollar. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Issuer may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Issuer need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Issuer need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed.

11. Persons Deemed Owners. The registered Holder of a Note may be treated as its owner for all purposes.

12. Amendment, Supplement and Waiver. The Indenture, the Notes, the Security Documents and the Intercreditor Agreement may be amended or supplemented as provided in the Indenture.

13. Defaults and Remedies. The Events of Default relating to the Notes are defined in Section 7.01 of the Indenture. If any Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Notes may declare the principal, premium, if any, interest and any other monetary obligations on all the then outstanding Notes to be due and payable immediately. Notwithstanding the foregoing, in the case of an Event of Default arising from certain events of bankruptcy or insolvency, all outstanding Notes will become due and payable immediately without further action or notice. Holders may not enforce the Indenture or the Notes except as provided in the Indenture. Subject to certain limitations, Holders of a majority in aggregate principal amount of the then outstanding Notes may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders of the Notes notice of any continuing Default (except a Default relating to the payment of principal, premium, if any, or interest) if it determines that withholding notice is in their interest. The Holders of a majority in aggregate principal amount of the Notes then outstanding by notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default or and its consequences under the Indenture except a continuing Default in payment of the principal of, premium, if any, or interest on, any of the Notes held by a non-consenting Holder. The Issuer is required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and the Issuer is required within five (5) Business Days after becoming aware of any Default, to deliver to the Trustee a statement specifying such Default and what action the Issuer is taking or proposes to take with respect thereto.

14. Authentication. This Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose until authenticated by the manual signature of the Trustee.

15. GOVERNING LAW. THE LAWS OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THE INDENTURE AND THE NOTES.

16. CUSIP and ISIN Numbers. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Issuer has caused CUSIP and ISIN numbers to be printed on the Notes and the Trustee may use CUSIP and ISIN numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as

printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

17. Restriction on Transfer. To the fullest extent permitted by law, prior to the Restriction Release Date, no Person shall be permitted to make an Acquisition, whether in a single transaction or series of related transactions, and any such purported Acquisition will be *void ab initio* and the Notes, will not be registered in the name of the purported transferee, to the extent that after giving effect to such purported Acquisition (if known by the Issuer or the Trustee) (i) the purported transferee or any other Person by reason of the purported transferee's Acquisition would become a Substantial Holder or (ii) the Beneficial Interest of a Person that, prior to giving effect to the purported Acquisition, is a Substantial Holder would be increased. The preceding sentence is not intended to prevent the Notes from being DTC-eligible and shall not preclude any settlement of any transactions in the Notes entered into through a national securities exchange or an inter-dealer quotation system or delivered through DTC, but such transaction, if prohibited by the prior sentence, shall nonetheless be a Prohibited Acquisition.

18. Deemed Representation. By Acquiring a Beneficial Interest in the Notes, any transferee of the Notes shall be deemed to have represented that (i) immediately before the Acquisition, it is not and by reason of its Acquisition it and any other person would not become a Substantial Holder and (ii) such transferee will comply with the provisions of Article XIV of the Indenture, as applicable.

The Issuer will furnish to any Holder upon written request and without charge a copy of the Indenture. Requests may be made to the Issuer at the following address:

Washington Mutual, Inc.
1201 Third Avenue
Seattle, Washington 98101
Attention: General Counsel

ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to:

(Insert assignee's legal name)

_____

(Insert assignee's soc. sec. or tax I.D. no.)

_____

_____

_____

_____

(Print or type assignee's name, address and zip code)

and irrevocably appoint
to transfer this Note on the books of the Issuer. The agent may substitute another to act for him.

Date: _____

Your Signature:

(Sign exactly as your name appears on the face of this Note)

Signature Guarantee*:

* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE*

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global or Definitive Note for an interest in this Global Note, or increased for a PIK Payment, have been made:

Date of Exchange/Transfer	**Amount of decrease in Principal Amount**	**Amount of increase in Principal Amount of this Global Note**	**Principal Amount of this Global Note following such decrease or increase**	**Signature of authorized officer of Trustee or Custodian**

* This schedule should be included only if the Note is issued in global form.

Exhibit H

Form of Pledge and Security Agreement (relating to Runoff Notes)

PLEDGE AND SECURITY AGREEMENT

Dated as of [●], 2012

among

WASHINGTON MUTUAL, INC.
as the Grantor

WILMINGTON TRUST, NATIONAL ASSOCIATION
as First Lien Trustee (as defined herein)

LAW DEBENTURE TRUST COMPANY OF NEW YORK
as Second Lien Trustee (as defined herein)

U.S. BANK NATIONAL ASSOCIATION
as Third Lien Agent (as defined herein)

and

WILMINGTON TRUST, NATIONAL ASSOCIATION
as Collateral Agent (as defined herein)

THIS PLEDGE AND SECURITY AGREEMENT IS SUBJECT TO THE TERMS AND PROVISIONS OF THE INTERCREDITOR AGREEMENT, DATED AS OF [●], 2012 (AS SUCH AGREEMENT MAY BE AMENDED, RESTATED, AMENDED AND RESTATED, SUPPLEMENTED OR OTHERWISE MODIFIED FROM TIME TO TIME, THE "*INTERCREDITOR AGREEMENT*"), BY AND AMONG THE FIRST LIEN TRUSTEE (AS HEREINAFTER DEFINED), THE SECOND LIEN TRUSTEE (AS HEREINAFTER DEFINED), THE THIRD LIEN AGENT (AS HEREINAFTER DEFINED) AND THE COLLATERAL AGENT(AS HEREINAFTER DEFINED).

PLEDGE AND SECURITY AGREEMENT, dated as of [●], 2012, by and among WASHINGTON MUTUAL, INC., a Washington corporation ("*WMI*" or the "*Grantor*"), the First Lien Trustee, the Second Lien Trustee, the Third Lien Agent and Wilmington Trust, National Association, as agent (in such capacity and together with its permitted successors and assigns, the "*Collateral Agent*") for the Secured Parties (as hereinafter defined).

WITNESSETH:

WHEREAS, WMI has entered into (i) the Senior First Lien Notes Indenture, dated as of the date hereof (as the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "*First Lien Indenture*") with Wilmington Trust, National Association as Trustee (in such capacity and together with its permitted successors and assigns, the "*First Lien Trustee*"), (ii) the Senior Second Lien Notes Indenture, dated as of the date hereof (as the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "*Second Lien Indenture*" and together with the First Lien Indenture, the "*Indentures*") with Law Debenture Trust Company of New York as Trustee (in such capacity and together with its permitted successors and assigns, the "*Second Lien Trustee*" and together with the First Lien Trustee, the "*Trustees*") and (iii) the Financing Agreement, dated as of the date hereof (as the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "*Third Lien Credit Agreement*") with U.S. Bank National Association as Agent (in such capacity and together with its permitted successors and assigns, the "*Third Lien Agent*") pursuant to which the lenders party thereto (the "*Third Lien Lenders*") have agreed to make loans to WMI in its capacity as borrower thereunder on terms and conditions contained therein;

WHEREAS, pursuant to the Indentures, the Grantor is entering into this Agreement in order to grant to the Collateral Agent separate and distinct security interests in the Collateral for the ratable benefit of the First Lien Secured Parties (as hereinafter defined), the Second Lien Secured Parties (as hereinafter defined) and the Third Lien Secured Parties (as hereinafter defined) to secure their respective Secured Obligations (as hereinafter defined).

NOW, THEREFORE, the Grantor hereby agrees with the Collateral Agent, the First Lien Trustee (on behalf of the First Lien Secured Parties), the Second Lien Trustee (on behalf of the Second Lien Secured Parties) and the Third Lien Agent (on behalf of the Third Lien Secured Parties), for the ratable benefit of the Secured Parties(as hereinafter defined), as follows:

ARTICLE I DEFINED TERMS

Section 1.1 Definitions

(a) Terms used herein without definition that are defined in the UCC have the meanings given to them in the UCC, including the following terms (which are capitalized herein):

"Account"
"Certificated Security"
"Control Account"
"Deposit Account"
"Instruments"
"Proceeds"

(b) The following terms shall have the following meanings:

"*Agreement*" means this Pledge and Security Agreement.

"*Bankruptcy Event of Default*" means an Event of Default pursuant to Section 7.01(5), (6) or (7) of each Indenture (as in effect on the date hereof).

"*Cash Equivalent*" shall have the meaning ascribed to such term in the Indentures as in effect on the date hereof.

"*Collateral*" has the meaning specified in *Section 2.1* (*Collateral*).

"*Collateral Account*" means a separate securities and/or deposit account established and maintained by the Grantor in which the Collateral Agent has a valid perfected security interest and over which the Collateral Agent has exclusive dominion and control.

"*Constituent Documents*" means, with respect to any Person, (a) the articles of incorporation, certificate of incorporation, constitution or certificate of formation (or the equivalent organizational documents) of such Person, (b) the by-laws or operating agreement (or the equivalent governing documents) of such Person and (c) any document setting forth the manner of election or duties of the directors or managing members of such Person (if any) and the designation, amount or relative rights, limitations and preferences of any class or series of such Person's Stock.

"*Control Agreement*" means an agreement executed by the Grantor, the Collateral Agent, any other secured parties party thereto and the relevant financial institution or securities intermediary, and providing to the Collateral Agent "control" of the Collateral Account within the meaning of Articles 8 and 9 of the UCC.

"*Default*" shall have the meaning ascribed to such term in the Indentures as in effect on the date hereof.

"*Excluded Collateral*" means (i) all equity interests in Owner and (ii) all assets of Owner and the Trusts, in each case, until such time as all required approvals to grant a lien therein have been obtained.

"*Event of Default*" shall mean an "Event of Default" as defined in either Indenture as in effect on the date hereof.

"*First Lien Noteholder*" means each Holder (as defined in the First Lien Indenture as in effect on the date hereof).

"*First Lien Secured Parties*" means the First Lien Trustee, the First Lien Noteholders and any other person from time to time holding First Lien Notes (as defined in the Second Lien Indenture as in effect on the date hereof).

"*GAAP*" shall have the meaning ascribed to such term in the Indentures.

"*Governmental Authority*" shall have the meaning ascribed to such term in the Indentures.

"*Insurance Book Closing*" means the transfer by WMMRC of (i) all Runoff Proceeds held on the date of such transfer, (ii) the right to receive all future Runoff Proceeds and the (iii) Trusts and their assets along with all insurance liabilities associated therewith as of the date of transfer to a protected cell established and maintained pursuant to § 431:19-303 of Title 24 of the Hawaii Insurance Code in conformance with all applicable Requirements of Law, which complies with the following requirements: (w) the Protected Cell shall be organized as a direct wholly owned subsidiary of WMI; (x) the assets of the Protected Cell shall not be chargeable with liabilities arising out of any other business WMMRC may conduct; (y) the business plan establishing the Protected Cell shall restrict its business to the administration and management of the Trusts and the assets thereof along with the liabilities associated therewith, and the distribution of the Runoff Proceeds; and (z) the governing documents of the Protected Cell shall provide that no dividend or distribution may be made to any Person other than WMI as provided for in the Notes Documentation.

"*Interest Payment Date*" shall have the meaning ascribed to such term in the Indentures.

"*Issuer Incremental Amount*" means an amount accruing on the outstanding Issuer Priority Amount or the Issuer Secondary Amount, as applicable, at 13% per annum payable quarterly in arrears on each Interest Payment Date, to WMI.

"*Issuer Priority Amount*" means (i) a principal amount equal to $4.0 million plus (ii) any amounts added due to unpaid Issuer Incremental Amounts in respect of the Issuer Priority Amount, less (iii) any repayments of the Issuer Priority Amounts, to WMI.

"*Issuer Secondary Amount*" means (i) a principal amount equal to $6.0 million plus (ii) any amounts added due to unpaid Issuer Incremental Amounts in respect of the Issuer Secondary Amount, less (iii) any repayments of the Issuer Secondary Amounts to WMI.

"*Lien*" means, with respect to any asset, any mortgage, lien (statutory or otherwise), pledge, hypothecation, charge, security interest, preference, priority or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent

statutes) of any jurisdiction; *provided* that in no event shall an operating lease be deemed to constitute a Lien.

"*Notes*" means the First Lien Notes (as defined in the Second Lien Indenture as in effect on the date hereof) and the Second Lien Notes (as defined in the First Lien Indenture as in effect on the date hereof).

"*Notes Documentation*" means the Notes Documentation (as defined in the First Lien Indenture as in effect on the date hereof) and the Notes Documentation (as defined in the Second Lien Indenture as in effect on the date hereof).

"*Noteholders*" means the First Lien Noteholders and the Second Lien Noteholders.

"*Owner*" means (x) WMMRC until the occurrence of an Insurance Book Closing and (y) the Protected Cell created by such Insurance Book Closing to which the Runoff Proceeds, the Trusts and the assets thereof are transferred, thereafter, in accordance with the terms of the Notes Documentation as in effect on the date hereof.

"*Person*" means any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other entity.

"*Pledged Collateral*" means, collectively, the capital stock of WMMRC owned or held by the Grantor (to the extent permitted by the applicable Governmental Authority) and the capital stock in the Protected Cell owned or held by the Grantor (to the extent permitted by the applicable Governmental Authority), all chattel paper, certificates or other Instruments representing any of the foregoing. For purposes of this Agreement, the term "*Pledged Collateral*" shall not include any Excluded Collateral.

"*Protected Cell*" means a protected cell established by WMI in connection with the Insurance Book Closing upon the receipt of approval of the applicable Governmental Authority and maintained pursuant to § 431:19-303 of Title 24 of the Hawaii Insurance Code, in conformance with all applicable Requirements of Law.

"*Requirements of Law*" shall have the meaning ascribed to such term in the Indentures as in effect on the date hereof.

"*Runoff Proceeds*" means (a)(i) all net premiums, reinsurance recoverables, net revenue resulting from commutation of insurance contracts, net interest income, reserve releases and other revenues derived from the reinsurance contracts, investments and other assets of the Trusts less, without duplication, (ii)(A) the reasonable and necessary costs and expenses of the Trusts and the Owner (including, but not limited to, general and administrative expenses, audit fees, required regulatory capital contributions (which capital contributions will be added back to the Runoff Proceeds if applicable regulations permit such distributions thereof), expenses of regulatory compliance, including all costs associated with the Insurance Book Closing, expenses of administering the Indentures and taxes attributable to the administration of the Trusts or the assets thereof and the collection of premiums and/or management of investments in connection therewith (which expenses shall include reasonable and customary expenses attributable to the foregoing paid under any administrative services agreement, investment management agreement

or similar agreement), and (B) claims paid for covered losses and (b) the proceeds from the foregoing received by the Owner or WMI in cash, securities and/or other property from any sale, liquidation, merger or other disposition in respect of the Owner or its interests in the Trusts or the assets thereof. The inclusion of clause (b) of this definition shall not be construed as a consent to any sale, liquidation, merger or other disposition or waiver of compliance with any covenant related thereto. For the avoidance of doubt, to the extent that WMI or WMMRC pays any such cost, capital contribution or expense described in clause (ii)(A), payment by WMI or WMMRC will be deemed a cost or expense of the Trusts.

"*Runoff Proceeds Distribution*" shall have the meaning ascribed to such term in the Indentures as in effect on the date hereof.

"*Second Lien Noteholder*" means each Holder (as defined in the Second Lien Indenture as in effect on the date hereof).

"*Second Lien Secured Parties*" means the Second Lien Trustee, the Second Lien Noteholders and any other person from time to time holding Second Lien Notes (as defined in the First Lien Indenture as in effect on the date hereof).

"*Secured Obligations*" means the First Lien Notes Obligations (as defined in the Second Lien Indenture as in effect on the date hereof), the Second Lien Notes Obligations (as defined in the First Lien Indenture as in effect on the date hereof) and the Third Lien Obligations.

"*Secured Parties*" means the Collateral Agent, the First Lien Secured Parties, the Second Lien Secured Parties and the Third Lien Secured Parties.

"*Secured Party Representative*" means First Lien Trustee (if the First Lien Note Obligations are still outstanding) or by the Second Lien Trustee (if none of the First Lien Note Obligations are outstanding and the Second Lien Note Obligations are still outstanding) or by the Third Lien Agent (if none of the First Lien Notes Obligations and Second Lien Notes Obligations are outstanding and the Third Lien Obligations are still outstanding or any commitments to lend are still in effect under the Third Lien Credit Agreement).

"*Security Documents*" means, collectively, this Agreement, the Intercreditor Agreement, any Control Agreements, other security agreements and directions to pay relating to the Collateral executed and delivered and/or filed and recorded in appropriate jurisdictions to preserve and protect the Liens on the Collateral (including, without limitation, financing statements under the UCC of the relevant states) related to the security interests granted by any of the foregoing documents and any other document or instrument evidencing, creating or providing for a Lien on any real or personal tangible or intangible property as security for any or all of the Secured Obligations.

"*Stock*" means shares of capital stock (whether denominated as common stock or preferred stock), beneficial, partnership or membership interests, participations or other equivalents (regardless of how designated) of or in a corporation, partnership, limited liability company or equivalent entity, whether voting or non-voting.

"*Third Lien Obligations*" means the Obligations (as defined in the Third Lien Credit Agreement as in effect on the date hereof).

"*Third Lien Secured Parties*" means the Third Lien Agent and the Third Lien Lenders.

"*Trusts*" means (a) Home Loan Reinsurance Co. United Guaranty Residential Insurance Company Reinsurance Agreement (Acct. No. x6401); (b) Home Loan Reinsurance Co. Genworth Reinsurance Co. Trust Agreement (Acct. No. x6403); (c) Mortgage Guaranty Insurance Corporation/WM MTG Reinsurance Co. Trust; (Acct. No. x2400); (d) Reinsurance Escrow Agreement among WM Mortgage Reinsurance Co. PMI Mortgage Insurance Company and US Bank (Acct. No. x6404); (e) Radian Guaranty Inc. and WM Mortgage Reinsurance Company Agreement, dated March 27, 2001 (Acct. No. x5700); (f) Home Loan Reinsurance Co. Republic Mortgage Co. Reinsurance Agreement, dated December 14, 1998 (Acct. No. x6402); (g) Washington Mutual Custody Account (Acct. No. x6406); and (h) WM Mortgage Reinsurance Company Inc. (Acct. No. x4202).

"*UCC*" means the Uniform Commercial Code of any applicable jurisdiction and, if the applicable jurisdiction shall not have any Uniform Commercial Code, the Uniform Commercial Code as in effect in the State of New York.

"*WMMRC*" means WM Mortgage Reinsurance Company, Inc., a Hawaii corporation and direct wholly-owned subsidiary of WMI.

Section 1.2 Certain Other Terms

(a) In this Agreement, in the computation of periods of time from a specified date to a later specified date, the word "*from*" means "from and including" and the words "*to*" and "*until*" each mean "to but excluding" and the word "*through*" means "to and including."

(b) The terms "*herein*," "*hereof*," "*hereto*" and "*hereunder*" and similar terms refer to this Agreement as a whole and not to any particular Article, Section, subsection or clause in this Agreement.

(c) References herein to an Annex, Schedule, Article, Section, subsection or clause refer to the appropriate Annex or Schedule to, or Article, Section, subsection or clause in this Agreement.

(d) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

(e) Where the context requires, provisions relating to any Collateral, when used in relation to the Grantor, shall refer to the Grantor's Collateral or any relevant part thereof.

(f) Any reference in this Agreement to an Indenture shall include all appendices, exhibits and schedules thereto, and, unless specifically stated otherwise all amendments, restatements, amendments and restatements, supplements or other modifications thereto, and as the same may be in effect at any time such reference becomes operative.

(g) The term "*including*" means "including without limitation" except when used in the computation of time periods.

(h) The terms "*Issuer*," "*Trustee*," "*Collateral Agent*" and "*Secured Party*" include their respective successors.

(i) References in this Agreement to any statute shall be to such statute as amended or modified and in effect from time to time.

ARTICLE II GRANT OF SECURITY INTEREST

Section 2.1 Collateral

For the purposes of this Agreement, all of the following property now owned or at any time hereafter acquired by the Grantor or in which the Grantor now has or at any time in the future may acquire any right, title or interests is collectively referred to as the "*Collateral*," in each case, only to the extent permitted by the applicable Governmental Authority and subject to the priority and payment provisions of the Indentures and the Intercreditor Agreement, including the Grantor's right to receive the Issuer Incremental Amount:

(a) the Collateral Account and all funds and assets held therein or credited thereto;

(b) all Run-Off Proceeds received by the Grantor;

(c) all rights of the Grantor to receive dividends or distributions in respect of the Run-Off Proceeds;

(d) the Pledged Collateral;

(e) to the extent not otherwise included, all Proceeds of the foregoing;

provided, however, that "*Collateral*" shall not include any Excluded Collateral; and *provided*, *further*, that if and when any property shall cease to be Excluded Collateral, such property shall be deemed at all times from and after the date hereof to constitute Collateral.

Section 2.2 Grant of Security Interest in Collateral

The Grantor, as collateral security for the full, prompt and complete payment and performance when due (whether at stated maturity, by acceleration or otherwise) of the First Lien Notes Obligations of the Grantor, hereby mortgages, pledges and hypothecates to the Collateral Agent for the benefit of the First Lien Secured Parties, and grants to the Collateral Agent for the benefit of the First Lien Secured Parties a first priority lien on and security interest in, all of its right, title and interest in, to and under the Collateral of the Grantor; *provided*, *however*, that, if and when any property that at any time constituted Excluded Collateral becomes Collateral, the Collateral Agent shall have, and at all times from and after the date hereof be deemed to have had, a security interest in such property.

The Grantor, as collateral security for the full, prompt and complete payment and performance when due (whether at stated maturity, by acceleration or otherwise) of the Second Lien Notes Obligations of the Grantor, hereby mortgages, pledges and hypothecates to the Collateral Agent for the benefit of the Second Lien Secured Parties, and grants to the Collateral Agent for the benefit of the Second Lien Secured Parties a second priority lien on and security

interest in, all of its right, title and interest in, to and under the Collateral of the Grantor; *provided*, *however*, that, if and when any property that at any time constituted Excluded Collateral becomes Collateral, the Collateral Agent shall have, and at all times from and after the date hereof be deemed to have had, a security interest in such property.

The Grantor, as collateral security for the full, prompt and complete payment and performance when due (whether at stated maturity, by acceleration or otherwise) of the Third Lien Obligations of the Grantor, hereby mortgages, pledges and hypothecates to the Collateral Agent for the benefit of the Third Lien Secured Parties, and grants to the Collateral Agent for the benefit of the Third Lien Secured Parties a third priority lien on and security interest in, all of its right, title and interest in, to and under the Collateral of the Grantor; *provided*, *however*, that, if and when any property that at any time constituted Excluded Collateral becomes Collateral, the Collateral Agent shall have, and at all times from and after the date hereof be deemed to have had, a security interest in such property.

ARTICLE III REPRESENTATIONS AND WARRANTIES

To induce (i) each Trustee to enter into each Indenture and the Noteholders to accept the Notes issued thereunder and (ii) the Third Lien Agent to enter into the Third Lien Credit Agreement and the Third Lien Lenders to make loans thereunder, the Grantor hereby represents and warrants each of the following to the Collateral Agent and the other Secured Parties:

Section 3.1 Title; No Other Liens

Except for the Lien granted to the Collateral Agent pursuant to this Agreement and the other Liens permitted to exist on the Collateral under the Note Documentation and the Third Lien Credit Agreement, the Grantor (a) is the record and beneficial owner of the Pledged Collateral pledged by it hereunder and (b) has rights in or the power to transfer each other item of Collateral in which a Lien is granted by it hereunder, in case of clauses (a) and (b) above, free and clear of any other Lien.

Section 3.2 Perfection and Priority

The security interest granted pursuant to this Agreement shall constitute a valid and continuing perfected security interest in favor of the Collateral Agent in the Collateral for which perfection is governed by the UCC upon (i) filing a financing statement under the UCC in the applicable filing office in the state of Washington, (ii) the delivery to the Collateral Agent of all Collateral consisting of Certificated Securities, in each case properly endorsed for transfer to the Collateral Agent or in blank and (iii) the execution of a Control Agreement with respect to the Collateral Account. Such security interest shall be prior to all other Liens on the Collateral except as otherwise permitted pursuant to the Indentures, the Third Lien Credit Agreement or the Intercreditor Agreement; *provided*, *however*, the Collateral Agent on behalf of the Secured Parties acknowledges that the Grantor's interest in the Runoff Proceeds held by any Person is only through the Grantor's ownership of the Pledged Collateral, Runoff Proceeds Distribution or other dividend or distribution in respect of equity interest in Owner.

Section 3.3 Jurisdiction of Organization; Chief Executive Office

As of the date hereof, the Grantor's jurisdiction of organization, legal name, organizational identification number and chief executive office or principal place of business are as listed on *Schedule 3.3* hereto.

Section 3.4 Pledged Collateral

All Pledged Collateral consisting of Certificated Securities has been delivered to the Collateral Agent in accordance with *Section 4.4(a) (Pledged Collateral).*

ARTICLE IV COVENANTS

The Grantor agrees with the Collateral Agent to the following, as long as any Secured Obligations remain outstanding:

Section 4.1 Generally

The Grantor shall (a) except for the security interest created by this Agreement, not create or suffer to exist any Lien upon or with respect to any Collateral, except Liens permitted under the Note Documentation or the Third Lien Credit Agreement, (b) subject to the provisions of the Intercreditor Agreement, not sell, transfer or assign (by operation of law or otherwise) any Collateral except as permitted under the Note Documentation or the Third Lien Credit Agreement and (c) not enter into any agreement or undertaking restricting the right or ability of the Grantor or the Collateral Agent to sell, assign or transfer any Collateral.

Section 4.2 Maintenance of Perfected Security Interest; Further Documentation

(a) The Grantor shall maintain the security interest created by this Agreement as a perfected security interest having at least the priority described in *Section 3.2 (Perfection and Priority)* and shall defend such security interest and such priority against the claims and demands of all Persons.

(b) At any time and from time to time, upon the written request of the Collateral Agent, and at the sole expense of the Grantor, the Grantor shall promptly and duly execute and deliver, and have recorded, such further instruments and documents and take such further action as the Collateral Agent may reasonably request for the purpose of obtaining or preserving the full benefits of this Agreement and of the rights and powers herein granted, including the filing of any financing or continuation statement under the UCC (or other similar laws) in effect in any jurisdiction with respect to the security interest created hereby and the execution and delivery of Control Agreements.

Section 4.3 Changes in Locations, Name, Etc.

(a) Except upon 15 days' prior written notice to the Collateral Agent and delivery to the Collateral Agent of all additional financing statements and other documents reasonably necessary to maintain the validity, perfection and priority of the security interests provided for herein, the Grantor shall not do any of the following:

(i) change its jurisdiction of organization or the location of its chief executive office or the books and records relating to the Collateral, in each case from that referred to in *Section 3.3 (Jurisdiction of Organization; Chief Executive Office)*; or

(ii) (A) change its legal name or any trade name used to identify it in the conduct of its business or ownership of its properties or organizational identification number, if any, or (B) change its corporation, limited liability company or other organizational structure to such an extent that any financing statement filed in connection with this Agreement would become misleading.

(b) The Grantor shall keep and maintain at its own cost and expense satisfactory and complete records of the Collateral, including a record of all payments received and all credits granted with respect to the Collateral and all other dealings with the Collateral.

Section 4.4 Pledged Collateral

(a) The Grantor shall deliver to the Collateral Agent all certificates representing or evidencing any Pledged Collateral, whether now existing or hereafter acquired, in suitable form for transfer by delivery or, as applicable, accompanied by the Grantor's endorsement, where necessary, or duly executed instruments of transfer or assignment in blank.

(b) Except as provided in *Article V (Remedial Provisions)*, the Grantor shall be entitled to receive all cash dividends paid in respect of the Pledged Collateral (other than liquidating or distributing dividends) with respect to the Pledged Collateral, *provided* that all Runoff Proceeds Distributions shall be deposited to the Collateral Account as provided in the Indentures and all other dividends shall be paid only in accordance with the Indentures and the Intercreditor Agreement. Any sums paid upon or in respect of any Pledged Collateral upon the liquidation or dissolution of any issuer of any Pledged Collateral, and any distribution of capital made on or in respect of any Pledged Collateral or any property distributed upon or with respect to any Pledged Collateral pursuant to the recapitalization or reclassification of the capital of any issuer of Pledged Collateral or pursuant to the reorganization thereof shall, unless otherwise subject to a perfected security interest in favor of the Collateral Agent, be delivered to the Collateral Agent to be held by it hereunder as additional collateral security for the Secured Obligations. If any sum of money or property so paid or distributed in respect of any Pledged Collateral shall be received by the Grantor, the Grantor shall, until such money or property is paid or delivered to the Collateral Agent, hold such money or property in trust for the Collateral Agent, segregated from other funds of the Grantor, as additional security for the Secured Obligations.

(c) Except as provided in *Article V (Remedial Provisions)*, the Grantor shall be entitled to exercise all voting, consent and corporate, partnership, limited liability company and similar rights with respect to the Pledged Collateral; *provided*, *however*, that no vote shall be cast, consent given or right exercised or other action taken by the Grantor that would impair the Collateral, be inconsistent with or result in any violation of any provision of the Note Documentation or the Third Lien Credit Agreement or, without prior notice to the Collateral Agent, enable or permit any issuer of Pledged Collateral to issue any Stock or other equity Securities of any nature or to issue any other securities convertible into or granting the right to purchase or exchange for any Stock or other equity Securities of any nature of any issuer of Pledged Collateral.

(d) The Grantor shall not, without the consent of the First Lien Trustee, the Second Lien Trustee and the Third Lien Agent, agree to any amendment of any Constituent Document that in any way adversely affects the perfection of the security interest of the Collateral Agent in the Pledged Collateral pledged by the Grantor hereunder, including any amendment electing to treat any membership interest or partnership interest that is part of the Pledged Collateral as a "security" under Section 8-103 of the UCC, or any election to turn any previously uncertificated Stock that is part of the Pledged Collateral into certificated Stock.

Section 4.5 Payment of Obligations

The Grantor shall pay and discharge or otherwise satisfy at or before maturity or before they become delinquent, as the case may be, all taxes, assessments and governmental charges or levies imposed upon the Collateral or in respect of income or profits therefrom, as well as all claims of any kind (including claims for labor, materials and supplies) against or with respect to the Collateral, except that no such charge need be paid if the amount or validity thereof is currently being contested in good faith by appropriate proceedings, reserves in conformity with GAAP with respect thereto have been provided on the books of the Grantor and such proceedings could not reasonably be expected to result in a Lien on or the sale, forfeiture or loss of any material portion of the Collateral or any interest therein.

ARTICLE V REMEDIAL PROVISIONS

Section 5.1 Code and Other Remedies

During the continuance of an Event of Default, the Collateral Agent may exercise, in addition to all other rights and remedies granted to it in this Agreement and in any other instrument or agreement securing, evidencing or relating to the Secured Obligations, all rights and remedies of a secured party under the UCC or any other applicable law. Without limiting the generality of the foregoing, the Collateral Agent, without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except any notice required by law referred to below) to or upon any Grantor or any other Person (all and each of which demands, defenses, advertisements and notices are hereby waived), may in such circumstances forthwith collect, receive, appropriate and realize upon any Collateral, and may forthwith sell, lease, assign, give option or options to purchase, or otherwise dispose of and deliver any Collateral (or contract to do any of the foregoing), in one or more parcels at public or private sale or sales, at any exchange, broker's board or office of the Collateral Agent or any Lender or elsewhere upon such terms and conditions as it may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery without assumption of any credit risk. The Collateral Agent shall have the right upon any such public sale or sales, and, to the extent permitted by the UCC and other applicable law, upon any such private sale or sales, to purchase the whole or any part of the Collateral so sold, free of any right or equity of redemption of any Grantor, which right or equity is hereby waived and released. The Collateral Agent shall apply the net proceeds of any action taken by it pursuant to this *Section 5.1*, after deducting all reasonable costs and expenses of every kind incurred in connection therewith or incidental to the care or safekeeping of any Collateral or in any way relating to the Collateral or the rights of the Collateral Agent and any other Secured Party hereunder, including reasonable attorneys' fees and disbursements, to the payment in whole or in part of the Secured Obligations, in such order as the Intercreditor Agreement shall prescribe, and only after such application and after the payment by the Collateral Agent of any other amount required by any provision of law or the Intercreditor

Agreement, need the Collateral Agent account for the surplus, if any, to any Grantor. To the extent permitted by applicable law, the Grantor waives all claims, damages and demands it may acquire against the Collateral Agent or any other Secured Party arising out of the exercise by them of any rights hereunder. If any notice of a proposed sale or other disposition of Collateral shall be required by law, such notice shall be deemed reasonable and proper if given at least 10 days before such sale or other disposition.

Section 5.2 Pledged Collateral

(a) During the continuance of an Event of Default (to the extent such Event of Default (other than a Bankruptcy Event of Default) has been declared in writing), the Collateral Agent (at the direction of the applicable Secured Party Representative) to the Grantor, (i) the Collateral Agent shall have the right to receive any Proceeds of the Pledged Collateral and make application thereof to the Secured Obligations in the order set forth in the Indentures and subject to the Intercreditor Agreement and (ii) the Collateral Agent or its nominee may exercise (A) any voting, consent, corporate and other right pertaining to the Pledged Collateral at any meeting of shareholders, partners or members, as the case may be, of the relevant issuer or issuers of Pledged Collateral or otherwise and (B) any right of conversion, exchange and subscription and any other right, privilege or option pertaining to the Pledged Collateral as if it were the absolute owner thereof (including the right to exchange at its discretion any of the Pledged Collateral upon the merger, amalgamation, consolidation, reorganization, recapitalization or other fundamental change in the corporate or equivalent structure of any issuer of Pledged Collateral, the right to deposit and deliver any Pledged Collateral with any committee, depositary, transfer agent, registrar or other designated agency upon such terms and conditions as the Collateral Agent may determine), all without liability except to account for property actually received by it; *provided*, *however*, that the Collateral Agent shall have no duty to any Grantor to exercise any such right, privilege or option and shall not be responsible for any failure to do so or delay in so doing.

(b) In order to permit the Collateral Agent to exercise the voting and other consensual rights that it may be entitled to exercise pursuant hereto and to receive all dividends and other distributions that it may be entitled to receive hereunder, (i) the Grantor shall promptly execute and deliver (or cause to be executed and delivered) to the Collateral Agent all such proxies, dividend payment orders and other instruments as the Collateral Agent may from time to time reasonably request and (ii) without limiting the effect of *clause (i)* above, the Grantor hereby grants to the Collateral Agent an irrevocable proxy to vote all or any part of the Pledged Collateral and to exercise all other rights, powers, privileges and remedies to which a holder of the Pledged Collateral would be entitled (including giving or withholding written consents of shareholders, partners or members, as the case may be, calling special meetings of shareholders, partners or members, as the case may be, and voting at such meetings), which proxy shall be effective, automatically and without the necessity of any action (including any transfer of any Pledged Collateral on the record books of the issuer thereof) by any other person (including the issuer of such Pledged Collateral or any officer or agent thereof) upon the occurrence and during the continuance of an Event of Default (to the extent such Event of Default (other than a Bankruptcy Event of Default) has been declared in writing) and which proxy shall only terminate upon the payment in full of the Secured Obligations.

(c) The Grantor hereby expressly authorizes and instructs each issuer of any Pledged Collateral pledged hereunder by the Grantor to (i) comply with any instruction received by it from the Collateral Agent in writing that (A) states that an Event of Default has occurred and

is continuing and (B) is otherwise in accordance with the terms of this Agreement, without any other or further instructions from the Grantor, and the Grantor agrees that such issuer shall be fully protected in so complying and (ii) unless otherwise expressly permitted hereby, pay any dividend or other payment with respect to the Pledged Collateral directly to the Collateral Agent.

Section 5.3 Proceeds to be Turned Over To Collateral Agent

Unless otherwise expressly provided in the Indentures, all Proceeds received by the Collateral Agent hereunder in cash or Cash Equivalents shall be held by the Collateral Agent in the Collateral Account. All Proceeds while held by the Collateral Agent in the Collateral Account (or by the Grantor in trust for the Collateral Agent) shall continue to be held as collateral security for the Secured Obligations and shall not constitute payment thereof until applied as provided in the Indentures and the Intercreditor Agreement.

Section 5.4 Non-Recourse

(a) Notwithstanding any other provision of the Indentures, the Notes, the Intercreditor Agreement and the other Security Documents to the contrary, the Collateral Agent on behalf of itself and the Secured Parties, agrees that it and the Secured Parties shall not have or take any recourse (other than actions for specific performance in clause (b) below) with respect to the Notes Documentation against the Grantor or its assets and property or against WMMRC or the Owner or their respective assets and property (other than assets that were required to be transferred to the Protected Cell pursuant to the Insurance Book Closing), except (i) to the Collateral Account, (ii) if the Issuer fails to comply with its obligations pursuant to Sections 4.02(a), 4.02(b), 5.02 or 5.08 of the Indentures, to the assets of the Grantor in an amount equal to the aggregate amount of any Runoff Proceeds or Runoff Proceeds Distributions that were not deposited into the Collateral Account, (iii) to the equity interests in and the excess assets of the Owner to the extent a Lien has been granted therein pursuant to *Section 2.2* in favor of the Collateral Agent and (iv) to the Owner or the Issuer for costs and expenses, including reasonable attorney's fees, related to the enforcement of Sections 4.01, 4.02, 4.03, 5.02, 5.03, 5.07, 5.08, 5.10 and 5.13 of the Indentures, if the Noteholders or the Trustees, as applicable, are the prevailing party in such enforcement action.

(b) The Grantor agrees that irreparable damage would occur and that the Trustees, the Collateral Agent and the Noteholders would not have any adequate remedy at law in the event that any of the provisions of the Indentures were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the Trustees, Collateral Agent and the Noteholders shall be entitled to an injunction or injunctions to prevent breaches of the Indentures and to enforce specifically the terms and provisions of the Indentures, including but not limited to Sections 4.02, 5.01, 5.02, 5.03, 5.07, 5.08, 5.11 and 5.13 of the Indentures, in any court of competent jurisdiction, without proof of actual damages (and each party hereby waives any requirement for the securing or posting of any bond or other security in connection therewith); specific performance being in addition to any other remedy to which the parties are entitled at law or in equity.

ARTICLE VI THE COLLATERAL AGENT

Section 6.1 Appointment

The First Lien Trustee (on behalf of itself and the First Lien Secured Parties), the Second Lien Trustee (on behalf of itself and the Second Lien Secured Parties) and the Third Lien Agent (on behalf of itself and the Third Lien Secured Parties) hereby irrevocably designate and appoint Wilmington Trust, National Association as the Collateral Agent for the Secured Parties under this Agreement and the Security Documents, and irrevocably authorizes Wilmington Trust, National Association, as the Collateral Agent, to take such action on behalf of the Secured Parties under the provisions of this Agreement and the Security Documents and to exercise such powers and perform such duties as are expressly delegated to the Collateral Agent by the terms thereof, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement, any Security Document or otherwise, the Collateral Agent shall not have any duties or responsibilities, except those expressly set forth herein and in the Security Documents, or any fiduciary relationship with any Secured Party, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or otherwise exist against the Collateral Agent. The provisions of this Agreement are solely for the benefit of the Secured Parties and no Grantor shall have any rights as a third party beneficiary or otherwise under any of the provisions hereof. In performing its functions and duties hereunder and under the other Security Documents, the Collateral Agent shall act solely as the agent of the Secured Parties and does not assume nor shall be deemed to have assumed any obligation or relationship of trust or agency with or for the Grantor or any of its respective successors and assigns.

Section 6.2 Exculpatory Provisions

(a) The Collateral Agent shall not be responsible in any manner whatsoever for the correctness of any recitals, statements, representations or warranties herein or in any Security Document or in any certificate, report, statement or other document referred to or provided for in, or received under or in connection with, this Agreement or any Security Document. The Collateral Agent makes no representations as to the value or condition of the Collateral or any part thereof, or as to the title of the Grantor or any other Person as to the security afforded by the Security Documents, or as to the validity, execution (except its own execution), enforceability, legality or sufficiency of this Agreement, the Security Documents or the Secured Obligations, and the Collateral Agent shall incur no liability or responsibility in respect of any such matters. The Collateral Agent shall not be responsible for insuring the Collateral or for the payments of taxes, charges or assessments or discharging of Liens upon the Collateral or otherwise as to the maintenance of the Collateral (except as may be expressly set forth with respect to maintenance of Collateral in its possession in the applicable Security Document).

(b) The Collateral Agent shall not be required to ascertain or inquire as to the observance or performance by the Grantor of any of the covenants or agreements contained in or conditions of the Security Documents or any other document or agreement or to inspect the properties, books or records of the Grantor. Whenever it is necessary, or in the opinion of the Collateral Agent advisable, for the Collateral Agent to ascertain the amount of Secured Obligations or other obligations then held by the Secured Parties, the Collateral Agent may rely on a certificate of the applicable Trustee or Third Lien Agent, in the case of the applicable

Secured Obligations or other obligations, and, if the applicable Trustee or Third Lien Agent shall not give such information to the Collateral Agent, the Collateral Agent shall be entitled to rely on the information with respect thereto most recently delivered by the Grantor, as the case may be, to the Collateral Agent.

(c) The Collateral Agent shall be under no obligation or duty to take any action under this Agreement or the Security Documents if taking such action (i) would subject the Collateral Agent to a tax in any jurisdiction where it is not then subject to a tax, unless the Collateral Agent receives security or indemnity satisfactory to it against such tax or (ii) would require the Collateral Agent to qualify to do business in any jurisdiction where it is not then so qualified; *provided*, *however*, that the Collateral Agent will use reasonable efforts to promptly notify the Secured Party Representative in the event that any action or duty that the Collateral Agent would otherwise take would result in any such tax or qualification requirement (but failure to so provide such notice shall not result in any liability to the Collateral Agent).

(d) The Collateral Agent shall not be under any obligation to exercise any of the rights or powers vested in the Collateral Agent by this Agreement and the Security Documents, at the request or direction of the Secured Parties or otherwise, unless the Collateral Agent shall have been provided adequate security and indemnity against the costs, expenses and liabilities which may be incurred by it in compliance with such request or direction, including such reasonable advances as may be requested by the Collateral Agent.

(e) No provision of this Agreement or of the Security Documents shall be deemed to impose any duty or obligation on the Collateral Agent to perform any act or acts or exercise any right, power, duty or obligation conferred or imposed on it, in any jurisdiction in which it shall be illegal, or in which the Collateral Agent shall be unqualified or incompetent, to perform any such act or acts or to exercise any such right, power, duty or obligation.

(f) Notwithstanding any other provision of this Agreement, the Collateral Agent shall not be liable for any action taken or omitted to be taken by it in accordance with this Agreement or the Security Documents except for liabilities resulting solely from its own gross negligence or willful misconduct.

(g) The Person serving as Collateral Agent hereunder shall have the same rights with respect to any Secured Obligations held by it as any other Secured Party and may exercise such rights as though it were not the Collateral Agent hereunder. Without altering its obligations hereunder, the Person serving as Collateral Agent and its affiliates may accept deposits from, lend money to, and generally engage in any kind of business with the Grantor as if it were not the Collateral Agent.

Section 6.3 Collateral Agent's Appointment as Attorney-in-Fact

(a) The Grantor hereby irrevocably constitutes and appoints the Collateral Agent and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of the Grantor and in the name of the Grantor or in its own name, for the purpose of carrying out the terms of this Agreement, to take any appropriate action and to execute any document or instrument that may be necessary or desirable to accomplish the purposes of this Agreement, and, without limiting the generality of the foregoing, the Grantor hereby gives the Collateral Agent the power

and right, on behalf of the Grantor, without notice to or assent by the Grantor, to do any of the following:

(i) pay or discharge taxes and Liens levied or placed on or threatened against the Collateral, effect any repair or pay any insurance called for by the terms of this Agreement (including all or any part of the premiums therefor and the costs thereof);

(ii) execute, in connection with any sale provided for in *Section 5.1 (Code and Other Remedies)*, any endorsement, assignment or other instrument of conveyance or transfer with respect to the Collateral; and

(iii) (A) direct any party liable for any payment under any Collateral to make payment of any moneys due or to become due thereunder directly to the Collateral Agent or as the Collateral Agent shall direct, (B) ask or demand for, collect, and receive payment of and receipt for, any moneys, claims and other amounts due or to become due at any time in respect of or arising out of any Collateral, (C) commence and prosecute any suit, action or proceeding at law or in equity in any court of competent jurisdiction to collect any Collateral and to enforce any other right in respect of any Collateral, (D) defend any suit, action or proceeding brought against the Grantor with respect to any Collateral, (E) settle, compromise or adjust any such suit, action or proceeding and, in connection therewith, give such discharges or releases as the Collateral Agent may deem appropriate, and (F) generally, sell, transfer, pledge and make any agreement with respect to or otherwise deal with any Collateral as fully and completely as though the Collateral Agent were the absolute owner thereof for all purposes, and do, at the Collateral Agent's option and the Grantor's expense, at any time, or from time to time, all acts and things that the Collateral Agent deems necessary to protect, preserve or realize upon the Collateral and the Collateral Agent's and the other Secured Parties' security interests therein and to effect the intent of this Agreement, all as fully and effectively as the Grantor might do.

Anything in this *clause (a)* to the contrary notwithstanding, the Collateral Agent agrees that it shall not exercise any right under the power of attorney provided for in this *clause (a)* unless an Event of Default shall be continuing.

(b) If any Grantor fails to perform or comply with any of its agreements contained herein, the Collateral Agent, at its option, but without any obligation so to do, may perform or comply, or otherwise cause performance or compliance, with such agreement.

(c) The expenses of the Collateral Agent incurred in connection with actions undertaken as provided in this *Section 6.3* shall be payable by the Grantor to the Collateral Agent pursuant to the Intercreditor Agreement.

(d) The Grantor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof. All powers, authorizations and agencies contained in this Agreement are coupled with an interest and are irrevocable until this Agreement is terminated and the security interests created hereby are released.

Section 6.4 Duty of Collateral Agent; Delegation of Duties

(a) The Collateral Agent's sole duty with respect to the custody, safekeeping and physical preservation of the Collateral in its possession shall be to deal with it in the same manner as the Collateral Agent deals with similar property for its own account. None of the Collateral Agent, any other Secured Party nor any of their respective officers, directors, employees or agents shall be liable for failure to demand, collect or realize upon any Collateral or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Collateral upon the request of any Grantor or any other Person or to take any other action whatsoever with regard to any Collateral. The powers conferred on the Collateral Agent hereunder are solely to protect the Collateral Agent's interest in the Collateral and shall not impose any duty upon the Collateral Agent or any other Secured Party to exercise any such powers. The Collateral Agent and the other Secured Parties shall be accountable only for amounts that they actually receive as a result of the exercise of such powers, and neither they nor any of their respective officers, directors, employees or agents shall be responsible to any Grantor for any act or failure to act hereunder, except for their own gross negligence or willful misconduct.

(b) The Collateral Agent may execute any of its duties or powers hereunder or under the Security Documents either directly or by or through agents or attorneys-in-fact, who may include any Secured Party; provided, however, that the Collateral Agent will give prompt notice to the Secured Party Representative if it delegates a material portion of its duties. The Collateral Agent shall not be responsible for the negligence or misconduct of any agents or attorneys-in-fact selected by it without gross negligence or willful misconduct.

Section 6.5 Reliance by Collateral Agent

(a) Whenever in the administration of this Agreement or the Security Documents, the Collateral Agent shall deem it necessary or desirable that a factual matter be proved or established in connection with the Collateral Agent taking, suffering or omitting any action hereunder or thereunder, such matter (unless other evidence in respect thereof is herein specifically prescribed) may be deemed to be conclusively proved or established by a certificate of the Grantor or the applicable Secured Party delivered to the Collateral Agent, and such certificate shall be full warrant to the Collateral Agent for any action taken, suffered or omitted in reliance thereon.

(b) The Collateral Agent may consult with legal counsel, independent accountants or other experts selected by it, and any advice of such experts shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder or under the Security Documents in accordance therewith. The Collateral Agent shall have the right at any time to seek instructions concerning the administration of this Agreement and the Security Documents from any court of competent jurisdiction. Any advice of experts may be based, insofar as it relates to factual matters, upon a certificate or other writing of the Secured Party Representative, the Grantor, the Secured Parties, or any other applicable Person or representations made by any of the foregoing furnished to the Collateral Agent.

(c) The Collateral Agent may rely, and shall be fully protected in acting, upon any resolution, statement, certificate, instrument, opinion, report, notice, request, consent, order, bond or other paper or document or conversation which it has no reason to believe to be other than genuine and to have been signed, presented or made by the proper party or parties.

Section 6.6 Actions by the Collateral Agent

The Collateral Agent shall not be under any obligation to take any action which is discretionary with the Collateral Agent under the provisions hereof or of the Security Documents except upon the written request of the Secured Party Representative. All of the Secured Parties shall be bound by any direction or instruction given to the Collateral Agent by the Secured Party Representative.

Section 6.7 Authorization of Financing Statements

The Grantor authorizes the Collateral Agent and its affiliates, counsel and other representatives, at any time and from time to time, to file or record financing statements, amendments to financing statements, and other filing or recording documents or instruments with respect to the Collateral in such form and in such offices as the Collateral Agent reasonably determines appropriate to perfect the security interests of the Collateral Agent under this Agreement. The Grantor hereby also authorizes the Collateral Agent and its affiliates, counsel and other representatives, at any time and from time to time, to file continuation statements with respect to previously filed financing statements. A photographic or other reproduction of this Agreement shall be sufficient as a financing statement or other filing or recording document or instrument for filing or recording in any jurisdiction.

Section 6.8 Authority of Collateral Agent

The Grantor acknowledges that the rights and responsibilities of the Collateral Agent under this Agreement with respect to any action taken by the Collateral Agent or the exercise or non-exercise by the Collateral Agent of any option, voting right, request, judgment or other right or remedy provided for herein or resulting or arising out of this Agreement shall, as between the Collateral Agent and the other Secured Parties, be governed by the Intercreditor Agreement and by such other agreements with respect thereto as may exist from time to time among them, but, as between the Collateral Agent and the Grantor, the Collateral Agent shall be conclusively presumed to be acting as agent for the Collateral Agent and the other Secured Parties with full and valid authority so to act or refrain from acting, and the Grantor shall be under no obligation, or entitlement, to make any inquiry respecting such authority.

Section 6.9 Non-Reliance on the Collateral Agent

Neither the Collateral Agent nor any of its officers, directors, employees, agents, attorneys, attorneys-in-fact or affiliates has made any representations or warranties to it and that no act by it hereinafter taken, including, without limitation, any review of the affairs of the Grantor, shall be deemed to constitute any representation or warranty by the Collateral Agent to any Secured Party. Each Noteholder and each Third Lien Lender must independently and without reliance upon the Collateral Agent, and based on such documents and information as it has deemed appropriate, make its own appraisal of and investigation into the business, operations, property, prospects, financial and other condition and creditworthiness of the Grantor and has made its own decision to accept notes or extend credit to the Grantor. Each Noteholder and each Third Lien Lender must independently and without reliance upon the Collateral Agent, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under the First Lien Indenture, the Second Lien Indenture or the Third Lien Credit Agreement, as applicable, or any other instrument or agreement, as applicable, and to make such investigation as it deems

necessary to inform itself as to the business, operations, property, prospects, financial and other condition and creditworthiness of the Grantor. Except for notices, reports and other documents expressly required to be furnished to the Secured Parties by the Collateral Agent hereunder or under the Indentures or Third Lien Credit Agreement, the Collateral Agent shall not have any duty or responsibility to provide any Secured Party with any credit or other information concerning the business, operations, property, prospects, financial and other condition or creditworthiness of the Grantor which may come into its possession or the possession of any of its officers, directors, employees, agents, attorneys, attorneys-in-fact or affiliates. The Collateral Agent and its affiliates may exercise all contractual and legal rights and remedies which may exist from time to time with respect to other existing and future relationships with the Grantor without any duty to account therefor to the Secured Parties.

Section 6.10 Compensation and Indemnification

(a) The Grantor shall pay to the Collateral Agent from time to time such compensation for its services hereunder as the parties shall agree in writing from time to time. The Collateral Agent's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Grantor shall reimburse the Collateral Agent promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses shall include the compensation and reasonable disbursements and expenses of the Collateral Agent's agents and counsel.

(b) The Grantor hereby agrees to indemnify the Collateral Agent (in its capacity as such) and its officers, directors, employees, representatives, agents and attorneys from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever (including, without limitation, the reasonable and documented fees and disbursements of counsel for the Collateral Agent or such Person in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not the Collateral Agent or such Person shall be designated a party thereto) which may at any time (including, without limitation, at any time following the payment of the Secured Obligations) be imposed on, incurred by or asserted against the Collateral Agent or such Person as a result of, in any way relating to or arising out of this Agreement or the Security Documents, or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by the Collateral Agent hereunder or thereunder or in connection herewith or therewith; *provided* that the Grantor shall not be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting solely from the gross negligence or willful misconduct of the Collateral Agent or such Person seeking indemnification hereunder as finally determined by a court of competent jurisdiction. The agreements in this section shall survive the termination of this Agreement and the payment of the Secured Obligations and all other amounts payable to any of the Secured Parties.

(c) To secure the payment obligations of the Grantor in this *Section 6.10*, the Collateral Agent shall have a Lien on all money and property held or collected by the Collateral Agent, subject to the provisions of the Intercreditor Agreement. Such Lien shall survive the satisfaction and discharge of this Agreement.

Section 6.11 Termination and Resignation of Collateral Agent

(a) Subject to *clause (f)* below, the Collateral Agent may resign its appointment under this Agreement at any time by giving notice to the Trustees and the Grantor.

(b) A successor Collateral Agent shall be selected (i) by the retiring Collateral Agent nominating one of its affiliates, following consultation with the Secured Party Representative and the Grantor or (ii) if the retiring Collateral Agent makes no such nomination following consultation with Grantor, by the Secured Party Representative.

(c) The appointment of the Collateral Agent may be terminated and a successor Collateral Agent appointed at any time with the consent of the Trustees, the Third Lien Agent and the Grantor.

(d) The resignation of the retiring Collateral Agent and the appointment of a successor Collateral Agent will become effective only upon the successor Collateral Agent accepting its appointment as Collateral Agent and upon the execution and delivery of all documents necessary to substitute the successor as holder of the security comprised in the Security Documents, if any, at which time, (i) the successor Collateral Agent will become bound by the obligations of the Collateral Agent and become entitled to all the rights, privileges, powers, authorities and discretions of the Collateral Agent under this agreement, (ii) the agency of the retiring Collateral Agent will terminate (but without prejudice to any liabilities which the retiring Collateral Agent may have incurred prior to the termination of agency) and (ii) the retiring Collateral Agent will be discharged from any further liability or obligation under or in connection with this Agreement or the Security Documents.

(e) The retiring Collateral Agent will cooperate with the successor Collateral Agent in order to ensure that its functions are transferred to the successor Collateral Agent without disruption to the service provided to the Trustees, the Secured Parties and the Grantor and will promptly make available to the successor Collateral Agent the documents and records which have been maintained in connection with this Agreement and the other Security Documents in order that the successor Collateral Agent is able to discharge its functions.

(f) The Collateral Agent may resign its appointment upon appointment of a successor Collateral Agent and such successor Collateral Agent having accepted the role of the Collateral Agent under this Agreement.

(g) The provisions of this Agreement will continue in effect for the benefit of the retiring Collateral Agent in respect of actions taken or omitted to be taken by it or any event occurring before the termination of agency.

ARTICLE VII MISCELLANEOUS

Section 7.1 Amendments in Writing

None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except in a writing signed by all parties hereto.

Section 7.2 Notices

All notices, requests and demands to or upon the Grantor, First Lien Trustee, the Second Lien Trustee, the Third Lien Agent and the Collateral Agent shall be made at the addresses specified in *Schedule 7.2* hereto, as the same may be modified by written notice to both the Grantor and the Collateral Agent.

Section 7.3 No Waiver by Course of Conduct; Cumulative Remedies

Neither the Collateral Agent nor any other Secured Party shall by any act (except by a written instrument pursuant to *Section 7.1 (Amendments in Writing)*), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced in any Default or Event of Default. No failure to exercise, nor any delay in exercising, on the part of the Collateral Agent or any other Secured Party, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Collateral Agent or any other Secured Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy that the Collateral Agent or such other Secured Party would otherwise have on any future occasion. The rights and remedies herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any other rights or remedies provided by law.

Section 7.4 Successors and Assigns

This Agreement shall be binding upon the successors and assigns of the Grantor and shall inure to the benefit of the Collateral Agent and each other Secured Party and their successors and assigns; *provided*, *however*, that no Grantor may assign, transfer or delegate any of its rights or obligations under this Agreement without the prior written consent of the First Lien Trustee, the Second Lien Trustee and the Third Lien Agent.

Section 7.5 Counterparts

This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts (including by telecopy), each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Signature pages may be detached from multiple counterparts and attached to a single counterpart so that all signature pages are attached to the same document. Delivery of an executed counterpart by telecopy shall be effective as delivery of a manually executed counterpart.

Section 7.6 Severability

Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 7.7 Section Headings

The Article and Section titles contained in this Agreement are, and shall be, without substantive meaning or content of any kind whatsoever and are not part of the agreement of the parties hereto.

Section 7.8 Entire Agreement

This Agreement together with the other Note Documentation represents the entire agreement of the parties and supersedes all prior agreements and understandings relating to the subject matter hereof.

Section 7.9 Governing Law

This Agreement and the rights and obligations of the parties hereto shall be governed by, and construed and interpreted in accordance with, the law of the State of New York.

Section 7.10 Release of Collateral

At the time provided in each of the First Lien Indenture, the Second Lien Indenture and the Third Lien Credit Agreement and subject to the provisions of the Intercreditor Agreement, the Collateral shall be released from the Lien created hereby and this Agreement and all obligations (other than those expressly stated to survive such termination) of the Collateral Agent and the Grantor hereunder shall terminate, all without delivery of any instrument or performance of any act by any party, and all rights to the Collateral shall revert to the Grantor. At the request and sole expense of any Grantor following any such termination, the Collateral Agent shall deliver to the Grantor any Collateral of the Grantor held by the Collateral Agent hereunder and execute and deliver to the Grantor such documents as the Grantor shall reasonably request to evidence such termination.

Section 7.11 Reinstatement

The Grantor further agrees that, if any payment made by WMI or other Person and applied to the Secured Obligations is at any time annulled, avoided, set aside, rescinded, invalidated, declared to be fraudulent or preferential or otherwise required to be refunded or repaid, or the proceeds of Collateral are required to be returned by any Secured Party to such Loan Party, its estate, trustee, receiver or any other party, including any Grantor, under any bankruptcy law, state or federal law, common law or equitable cause, then, to the extent of such payment or repayment, any Lien or other Collateral securing such liability shall be and remain in full force and effect, as fully as if such payment had never been made or, if prior thereto the Lien granted hereby or other Collateral securing such liability hereunder shall have been released or terminated by virtue of such cancellation or surrender), such Lien or other Collateral shall be reinstated in full force and effect, and such prior cancellation or surrender shall not diminish, release, discharge, impair or otherwise affect any Lien or other Collateral securing the obligations of any Grantor in respect of the amount of such payment.

Section 7.12 Incorporation by Reference

The following provisions of the Indentures (as in effect on the date hereof) are hereby incorporated by reference to the extent that they purport to govern the responsibilities and rights of the Collateral Agent: Sections 4.03, 12.02, 12.03(c), 12.04 and 12.07.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, each of the undersigned has caused this Pledge and Security Agreement to be duly executed and delivered as of the date first above written.

WASHINGTON MUTUAL, INC.,
as Grantor

By: _____
Name:
Title:

WILMINGTON TRUST, NATIONAL ASSOCIATION,
as First Lien Trustee

By: _____
Name:
Title:

LAW DEBENTURE TRUST COMPANY OF NEW YORK,
as Second Lien Trustee

By: _____
Name:
Title:

U.S. BANK NATIONAL ASSOCIATION,
as Third Lien Agent

By: _____
Name:
Title:

ACCEPTED AND AGREED
as of the date first above written:

WILMINGTON TRUST, NATIONAL ASSOCIATION,
as Collateral Agent

By: _____
Name:
Title:

Exhibit I

Form of Pledge and Security Agreement (relating to Credit Facility)

PLEDGE AND SECURITY AGREEMENT[1]

PLEDGE AND SECURITY AGREEMENT (the "Agreement") dated as of _____ __, 2012, made by each of the Grantors referred to below, in favor of U.S. Bank National Association, in its capacity as agent for the Secured Parties referred to below (in such capacity, together with its successors and assigns in such capacity, if any, the "Agent").[2]

W I T N E S S E T H:

WHEREAS, [Reorganized WMI], a Washington corporation (the "Borrower"), each subsidiary of the Borrower listed as a "Guarantor" on the signature pages thereto (together with each other Person (as defined in the Financing Agreement) that guarantees all or any portion of the Obligations (as defined in the Financing Agreement) from time to time, each a "Guarantor" and collectively, the "Guarantors", and together with the Borrower and each other Person that executes a supplement hereto and becomes an "Additional Grantor" hereunder, each a "Grantor" and collectively, the "Grantors"), the lenders from time to time party thereto (each a "Lender" and collectively, the "Lenders"), and the Agent are parties to a Financing Agreement, dated as of _____ __, 2012 (such agreement, as amended, restated, supplemented, modified or otherwise changed from time to time, including any replacement agreement therefor, being hereinafter referred to as the "Financing Agreement");

WHEREAS, pursuant to the Financing Agreement, the Lenders have agreed to make certain term loans (each a "Loan" and collectively, the "Loans"), to the Borrower;

WHEREAS, it is a condition precedent to the Lenders making any Loan to the Borrower pursuant to the Financing Agreement that each Grantor shall have executed and delivered to the Agent a pledge to the Agent, for the benefit of the Secured Parties, and the grant to the Agent, for the benefit of the Secured Parties, of (a) a security interest in and Lien on the outstanding shares of Equity Interests (as defined in the Financing Agreement), subject to the terms and condition herein, and indebtedness from time to time owned by such Grantor of each Person now or hereafter existing and in which such Grantor has any interest at any time, and (b) a security interest in all other assets of such Grantor; and

WHEREAS, each Grantor has determined that the execution, delivery and performance of this Agreement directly benefit, and are in the best interest of, such Grantor, and the credit extended under the Financing Agreement will inure to the benefit of each Grantor;

NOW, THEREFORE, in consideration of the premises and the agreements herein and in order to induce the Agent and the Lenders to make and maintain the Loans and to provide other financial accommodations to the Borrower pursuant to the Financing Agreement, the Grantors hereby jointly and severally agree with the Agent, for the benefit of the Secured Parties, as follows:

---

[1] Agreement remains subject to continuing review, including, without limitation, the review of the Agent and its counsel.

[2] Virtually all references to Agent mean Agent "at the direction of the Required Lenders." This will be reflected in the next draft pending discussions with the Agent concerning relevant provision to effectuate same.

SECTION 1. Definitions.

(a) Reference is hereby made to the Financing Agreement for a statement of the terms thereof. All capitalized terms used in this Agreement and the recitals hereto which are defined in the Financing Agreement or in Article 8 or 9 of the Uniform Commercial Code as in effect from time to time in the State of New York (the "Code") and which are not otherwise defined herein shall have the same meanings herein as set forth therein; provided that terms used herein which are defined in the Code as in effect in the State of New York on the date hereof shall continue to have the same meaning notwithstanding any replacement or amendment of such statute except as the Agent may otherwise determine in its sole discretion.

(b) The following terms shall have the respective meanings provided for in the Code: "Accounts", "Account Debtor", "Cash Proceeds", "Chattel Paper", "Commercial Tort Claim", "Commodity Account", "Commodity Contracts", "Deposit Account", "Documents", "Electronic Chattel Paper", "Equipment", "Fixtures", "General Intangibles", "Goods", "Instruments", "Inventory", "Investment Property", "Letter-of-Credit Rights", "Noncash Proceeds", "Payment Intangibles", "Proceeds", "Promissory Notes", "Record", "Security Account", "Software", "Supporting Obligations" and "Tangible Chattel Paper".

(c) As used in this Agreement, the following terms shall have the respective meanings indicated below, such meanings to be applicable equally to both the singular and plural forms of such terms:

"Additional Collateral" has the meaning specified therefor in Section 4(a)(i) hereof.

"Cash Management Account" means each bank account of each Grantor maintained at one or more Cash Management Banks listed on Schedule IV.

"Cash Management Agreement" means a control agreement, in form and substance reasonably satisfactory to the Agent, by and among a Grantor, the Agent and a Cash Management Bank with respect to each Cash Management Account, pursuant to which such Cash Management Bank shall irrevocably agree, among other things, that (i) it will comply at any time with the instructions originated by the Agent (or its designee) to such bank or financial institution directing the disposition of cash, Cash Equivalents, Commodity Contracts, securities, Investment Property and other items from time to time credited to such Cash Management Account, without further consent of such Grantor, (ii) all cash, Cash Equivalents, Commodity Contracts, securities, Investment Property and other items of such Grantor deposited with such institution shall be subject to a perfected, first priority security interest in favor of the Agent (or its designee), (iii) any right of set off, banker's Lien or other similar Lien, security interest or encumbrance shall be fully waived as against the Agent (or its designee), and (iv) upon receipt of written notice from the Agent upon the occurrence of an Event of Default, such Cash Management Bank shall immediately send to the Agent (or its designee) by wire transfer (to such account as the Agent (or its designee) shall specify, or in such other manner as the Agent (or its designee) shall direct) all such cash, Cash Equivalents, the value of any Commodity Contracts, securities, Investment Property and other items held by it and shall agree to cease to comply with

any directive or instruction by such Grantor.

"Cash Management Bank" has the meaning specified therefor in Section 6(h) hereof.

"Certificated Entities" has the meaning specified therefor in Section 5(l) hereof.

"Code" has the meaning specified therefor in Section 1(a) hereof.

"Collateral" has the meaning specified therefor in Section 2 hereof.

"Collections" means all cash, checks, notes, instruments, and other items of payment (including insurance proceeds, proceeds of cash sales, rental proceeds, and tax refunds).

"Copyright Licenses" means all licenses, contracts or other agreements, whether written or oral, naming any Grantor as licensee or licensor and providing for the grant of any right to use or sell any works covered by any Copyright (including, without limitation, all Copyright Licenses set forth in Schedule II hereto (as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof)).

"Copyrights" means all domestic and foreign copyrights, whether registered or unregistered, including, without limitation, all copyright rights throughout the universe (whether now or hereafter arising) in any and all media (whether now or hereafter developed), in and to all original works of authorship fixed in any tangible medium of expression (including computer software and internet website content) now or hereafter owned, acquired, developed or used by any Grantor (including, without limitation, all copyrights described in Schedule II hereto (as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof)), all applications, registrations and recordings thereof (including, without limitation, applications, registrations and recordings in the United States Copyright Office or in any similar office or agency of the United States or any other country or any political subdivision thereof), and all reissues, extensions or renewals thereof.

"Current Value" has the meaning specified therefor in Section 6(l) hereof.

"Existing Issuer" has the meaning specified therefor in the definition of the term "Pledged Shares".

"Foreign Subsidiary" has the meaning specified therefor in Section 2 hereof.

"Insurance Assets" means Regulated Insurance Assets of an Insurance Subsidiary and Insurance Holdings.

"Intellectual Property" means all Copyrights, Patents, Trademarks and Other Intellectual Property.

"Licenses" means the Copyright Licenses, the Patent Licenses and the Trademark Licenses.

"Mortgage" means a mortgage (including, without limitation, a leasehold mortgage), deed of trust or deed to secure debt or similar agreement or instrument, in form and substance satisfactory to the Agent, made by a Grantor in favor of the Agent for the benefit of the Agent and the Lenders, securing the Obligations and delivered to the Agent.

"New Facility" has the meaning specified therefor in Section 6(l) hereof.

"Other Intellectual Property" means all trade secrets, ideas, concepts, methods, techniques, processes, proprietary information, technology, know-how, formulae, rights of publicity and privacy and other general intangibles of like nature, now or hereafter acquired, owned, developed or used by any Grantor (including, without limitation, all Other Intellectual Property set forth in Schedule II hereto (as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof)).

"Patent Licenses" means all licenses, contracts or other agreements, whether written or oral, naming any Grantor as licensee or licensor and providing for the grant of any right to manufacture, use or sell any invention covered by any Patent (including, without limitation, all Patent Licenses set forth in Schedule II hereto (as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof)).

"Patents" means all domestic and foreign letters patent, design patents, utility patents, industrial designs and inventions, now existing or hereafter acquired (including, without limitation, all of those described in Schedule II hereto (as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof)), all applications, registrations and recordings thereof (including, without limitation, applications, registrations and recordings in the United States Patent and Trademark Office, or in any similar office or agency of the United States or any other country or any political subdivision thereof), and all reissues, divisions, continuations, continuations in part and extensions or renewals thereof.

"Perfection Requirement" has the meaning specified therefor in Section 5(i) hereof.

"Pledge Amendment" has the meaning specified therefor in Section 4(a)(ii) hereof.

"Pledged Debt" means the indebtedness described in Schedule VII hereto (as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof) of the Grantors and all indebtedness from time to time owned or acquired by any Grantor, the Promissory Notes and other Instruments evidencing any or all of such indebtedness, and all interest, cash, Instruments, Investment Property, financial assets, securities, Equity Interests, stock options and Commodity Contracts, notes, debentures, bonds, Promissory Notes or other evidences of indebtedness and all other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such indebtedness.

"Pledged Interests" means, collectively, (a) the Pledged Debt, (b) the Pledged Shares and (c) all security entitlements of any Grantor in any and all of the foregoing.

"Pledged Issuer" has the meaning specified therefor in the definition of the term

"Pledged Shares".

"Pledged Shares" means (a) the shares of Equity Interests described in Schedule VIII hereto (as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof), whether or not evidenced or represented by any stock certificate, certificated security or other Instrument, owned by the Grantors and issued by the Persons described in such Schedule VIII (the "Existing Issuers"), (b) the shares of Equity Interests at any time and from time to time acquired by a Grantor of any and all Persons now or hereafter existing (such Persons, together with the Existing Issuers, being hereinafter referred to collectively as the "Pledged Issuers" and each individually as a "Pledged Issuer"), whether or not evidenced or represented by any stock certificate, certificated security or other Instrument, and (c) the certificates representing such shares of Equity Interests, all options and other rights, contractual or otherwise, in respect thereof and all dividends, distributions, cash, Instruments, Investment Property, financial assets, securities, Equity Interests, stock options and Commodity Contracts, notes, debentures, bonds, Promissory Notes or other evidences of indebtedness and all other property (including, without limitation, any stock dividend and any distribution in connection with a stock split) from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such Equity Interests.

"Runoff Assets Collateral" means "Collateral" under and as defined in the Runoff Assets Pledge and Security Agreement.

"Runoff Assets Pledge and Security Agreement" means that certain Pledge and Security Agreement, dated as of the date hereof, among the Borrower, as the Grantor, Wilmington Trust, National Association, as First Lien Trustee, Law Debenture Trust Company of New York, as Second Lien Trustee, the Agent, as Third Lien Agent, and Wilmington Trust, National Association, as Collateral Agent thereunder, as the same may be amended, restated, supplemented, modified or otherwise changed from time to time, including any replacement agreement therefor.

"Secured Parties" means, collectively, the Agent and the Lenders.

"Secured Obligations" has the meaning specified therefor in Section 3 hereof.

"Trademark Licenses" means all licenses, contracts or other agreements, whether written or oral, naming any Grantor as licensor or licensee and providing for the grant of any right concerning any Trademark, together with any goodwill connected with and symbolized by any such trademark licenses, contracts or agreements and the right to prepare for sale or lease and sell or lease any and all Inventory now or hereafter owned by any Grantor and now or hereafter covered by such licenses (including, without limitation, all Trademark Licenses described in Schedule II hereto (as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof)).

"Trademarks" means all domestic and foreign trademarks, service marks, collective marks, certification marks, trade names, business names, d/b/a's, Internet domain names, trade styles, designs, logos and other source or business identifiers and all general intangibles of like nature, now or hereafter owned, adopted, acquired or used by any Grantor

(including, without limitation, all domestic and foreign trademarks, service marks, collective marks, certification marks, trade names, business names, d/b/a's, Internet domain names, trade styles, designs, logos and other source or business identifiers described in Schedule II hereto (as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof)), all applications, registrations and recordings thereof (including, without limitation, applications, registrations and recordings in the United States Patent and Trademark Office or in any similar office or agency of the United States, any state thereof or any other country or any political subdivision thereof), and all reissues, extensions or renewals thereof, together with all goodwill of the business symbolized by such marks.

SECTION 2. Grant of Security Interest. As collateral security for the payment, performance and observance of all of the Secured Obligations, each Grantor hereby pledges and assigns to the Agent (and its agents and designees), and grants to the Agent (and its agents and designees), for the benefit of the Secured Parties, a continuing security interest in, all personal property and Fixtures of such Grantor in which such Grantor has rights, wherever located and whether now or hereafter existing and whether now owned or hereafter acquired, of every kind and description, tangible or intangible, including, without limitation, the following (all being collectively referred to herein as the "Collateral"):

(a) all Accounts;

(b) all Chattel Paper (whether tangible or electronic);

(c) the Commercial Tort Claims specified on Schedule VI (as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof);

(d) all Deposit Accounts, all cash, and all other property from time to time deposited therein or otherwise credited thereto and the monies and property in the possession or under the control of the Agent or any Lender or any affiliate, representative, agent or correspondent of the Agent or any Lender;

(e) all Documents;

(f) all General Intangibles (including, without limitation, all Payment Intangibles, Intellectual Property and Licenses);

(g) all Goods, including, without limitation, all Equipment, Fixtures and Inventory;

(h) all Instruments (including, without limitation, Promissory Notes);

(i) all Investment Property;

(j) all Letter-of-Credit Rights;

(k) all Pledged Interests;

(l) all Supporting Obligations;

(m) all cash and cash equivalents;

(n) all other tangible and intangible personal property of such Grantor (whether or not subject to the Code), including, without limitation, all bank and other accounts and all cash and all investments therein, all proceeds, products, offspring, accessions, rents, profits, income, benefits, substitutions and replacements of and to any of the property of such Grantor described in the preceding clauses of this Section 2 hereof (including, without limitation, any proceeds of insurance thereon and all causes of action, claims and warranties now or hereafter held by such Grantor in respect of any of the items listed above), and all books, correspondence, files and other Records, including, without limitation, all tapes, disks, cards, Software, data and computer programs in the possession or under the control of such Grantor or any other Person from time to time acting for such Grantor that at any time evidence or contain information relating to any of the property described in the preceding clauses of this Section 2 hereof or are otherwise necessary or helpful in the collection or realization thereof; and

(o) all Proceeds, including all Cash Proceeds and Noncash Proceeds, and products of any and all of the foregoing Collateral;

in each case howsoever such Grantor's interest therein may arise or appear (whether by ownership, security interest, claim or otherwise).

Notwithstanding anything herein to the contrary, the term "Collateral" shall not include (i) any Insurance Assets or Pledged Interests to the extent, but only for so long as, any insurance-related Governmental Authority does not permit such Insurance Assets or Pledged Interests to become "Collateral" hereunder, it being understood that "Collateral" shall include any such Insurance Assets or Pledged Interests (other than Runoff Assets Collateral to the extent set forth in clause (ii) of this paragraph) immediately upon any approval of such insurance-related Governmental Authority in accordance with Section 6.01(b) of the Financing Agreement, and (ii) Runoff Assets Collateral except as specifically set forth in the Runoff Assets Pledge and Security Agreement and the Intercreditor Agreement (as defined in the Runoff Assets Pledge and Security Agreement).

Notwithstanding anything herein to the contrary, the term "Collateral" shall not include in the case of a Subsidiary of such Grantor organized under the laws of a jurisdiction other than the United States, any of the states thereof or the District of Columbia (a "Foreign Subsidiary"), more than 65% (or such greater percentage that, due to a change in applicable law after the date hereof, (i) would not reasonably be expected to cause the undistributed earnings of such Foreign Subsidiary as determined for United States federal income tax purposes to be treated as a deemed dividend to such Foreign Subsidiary's United States parent and (ii) would not reasonably be expected to cause any material adverse tax consequences) of the issued and outstanding shares of Equity Interests entitled to vote (within the meaning of Treas. Reg. Section 1.956-2(c)(2)) (it being understood and agreed that the Collateral shall include 100% of the issued and outstanding shares of Equity Interests not entitled to vote (within the meaning of Treas. Reg. Section 1.956-2(c)(2)) or other equity interest of such Foreign Subsidiary).

The Grantors agree that the pledge of the shares of Equity Interests of any Pledged Issuer who is a Foreign Subsidiary may be supplemented by one or more separate pledge agreements, deeds of pledge, share charges, or other similar agreements or instruments, executed and delivered by the relevant Grantors in favor of the Agent, which pledge agreements will provide for the pledge of such shares of Equity Interests in accordance with the laws of the applicable foreign jurisdiction. With respect to such shares of Equity Interests, the Agent may, at any time and from time to time, in its sole discretion, take actions in such foreign jurisdictions that will result in the perfection of the Lien created in such shares of Equity Interests, in each case, at the expense of the Grantors.

SECTION 3. Security for Secured Obligations. The security interest created hereby in the Collateral constitutes continuing collateral security for all of the following obligations, whether now existing or hereafter incurred (the "Secured Obligations"):

(a) the prompt payment by each Grantor, as and when due and payable (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise), of all amounts from time to time owing by it in respect of the Financing Agreement and/or the other Loan Documents, including, without limitation, (i) all Obligations, (ii) in the case of a Guarantor, all amounts from time to time owing by such Guarantor in respect of its guaranty made pursuant to Article IX of the Financing Agreement or under any other Guaranty to which it is a party, including, without limitation, all obligations guaranteed by such Guarantor and (iii) all interest, fees, commissions, charges, expense reimbursements, indemnifications and all other amounts due or to become due under any Loan Document (including, without limitation, all interest, fees, commissions, charges, expense reimbursements, indemnifications and other amounts that accrue after the commencement of any Insolvency Proceeding of any Grantor, whether or not the payment of such interest, fees, commissions, charges, expense reimbursements, indemnifications and other amounts are unenforceable or are not allowable, in whole or in part, due to the existence of such Insolvency Proceeding); and

(b) the due performance and observance by each Grantor of all of its other obligations from time to time existing in respect of the Loan Documents.

SECTION 4. Delivery of the Pledged Interests.

(a) (i) All Promissory Notes currently evidencing the Pledged Debt and all certificates currently representing the Pledged Shares shall be delivered to the Agent on or prior to the execution and delivery of this Agreement. All other Promissory Notes, certificates and Instruments constituting Pledged Interests from time to time required to be pledged to the Agent pursuant to the terms of this Agreement or the Financing Agreement (the "Additional Collateral") shall be delivered to the Agent promptly upon, but in any event within ten (10) days of, receipt thereof by or on behalf of any of the Grantors. All such Promissory Notes, certificates and Instruments shall be held by or on behalf of the Agent pursuant hereto and shall be delivered in suitable form for transfer by delivery or shall be accompanied by duly executed instruments of transfer or assignment or undated stock powers executed in blank, all in form and substance reasonably satisfactory to the Agent. If any Pledged Interests consist of uncertificated securities, unless the immediately following sentence is applicable thereto, such Grantor shall cause the Agent (or its designated custodian or nominee) to become the registered holder thereof, or cause

each issuer of such securities to agree that it will comply with instructions originated by the Agent with respect to such securities without further consent by such Grantor. If any Pledged Interests consist of security entitlements, such Grantor shall transfer such security entitlements to the Agent (or its custodian, nominee or other designee), or cause the applicable securities intermediary to agree that it will comply with entitlement orders by the Agent without further consent by such Grantor.

(ii) Within five (5) days of the receipt by a Grantor of any Additional Collateral, a Pledge Amendment, duly executed by such Grantor, in substantially the form of Exhibit A hereto (a "Pledge Amendment"), shall be delivered to the Agent, in respect of the Additional Collateral that must be pledged pursuant to this Agreement and the Financing Agreement. The Pledge Amendment shall from and after delivery thereof constitute part of Schedules VII and VIII hereto. Each Grantor hereby authorizes the Agent to attach each Pledge Amendment to this Agreement and agrees that all Promissory Notes, certificates or Instruments listed on any Pledge Amendment delivered to the Agent shall for all purposes hereunder constitute Pledged Interests and such Grantor shall be deemed upon delivery thereof to have made the representations and warranties set forth in Section 5 hereof with respect to such Additional Collateral.

(b) If any Grantor shall receive, by virtue of such Grantor's being or having been an owner of any Pledged Interests, any (i) stock certificate (including, without limitation, any certificate representing a stock dividend or distribution in connection with any increase or reduction of capital, reclassification, merger, consolidation, sale of assets, combination of shares, stock split, spin-off or split-off), Promissory Note or other Instrument, (ii) option or right, whether as an addition to, substitution for, or in exchange for, any Pledged Interests, or otherwise, (iii) dividends payable in cash (except such dividends permitted to be retained by any such Grantor pursuant to Section 7 hereof) or in securities or other property or (iv) dividends, distributions, cash, Instruments, Investment Property and other property in connection with a partial or total liquidation or dissolution or in connection with a reduction of capital, capital surplus or paid-in surplus, such Grantor shall receive such stock certificate, Promissory Note, Instrument, option, right, payment or distribution in trust for the benefit of the Agent, shall segregate it from such Grantor's other property and shall deliver it forthwith to the Agent, in the exact form received, with any necessary indorsement and/or appropriate stock powers duly executed in blank, to be held by the Agent as Pledged Interests and as further collateral security for the Secured Obligations.

SECTION 5. Representations and Warranties. Each Grantor jointly and severally represents and warrants as follows:

(a) Schedule I hereto (as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof) sets forth a complete and accurate list as of the date hereof of (i) the exact legal name of each Grantor, (ii) the jurisdiction of organization of each Grantor, (iii) the type of organization of each Grantor, (iv) the organizational identification number of each Grantor or states that no such organizational identification number exists, and (v) the federal employer identification number of each Grantor.

(b) All Equipment, Fixtures, Inventory and other Goods now existing

are, and all Equipment, Fixtures, Inventory and other Goods hereafter existing will be, located at the addresses specified therefor in Schedule III hereto (as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof). Each Grantor's places of business and chief executive office, the place where such Grantor keeps its Records concerning Accounts and all originals of all Chattel Paper, and each location where any Grantor has any Collateral are located at the addresses specified therefor in Schedule III hereto (as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof). None of the Accounts is evidenced by Promissory Notes or other Instruments. Set forth in Schedule IV hereto (as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof) is a complete and accurate list, of each Deposit Account, Securities Account and Commodities Account of each Grantor, together with the name and address of each institution at which each such Account is maintained, the account number for each such Account and a description of the purpose of each such Account.

(c) Each Grantor has delivered to the Agent true, complete and correct copies of each License described in Schedule II hereto (as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof), including all schedules and exhibits thereto, which represents all of the Licenses existing on the date of this Agreement.

(d) The Grantors own and control, or otherwise have the right to use, all Intellectual Property necessary for the operation of its business, without infringement, to their knowledge, upon or conflict with the rights of any other Person with respect thereto, except for such infringements and conflicts which, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. Schedule II hereto (as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof) sets forth a complete and accurate list of all Intellectual Property and Licenses owned or used by each Grantor as of the date hereof. All such Intellectual Property is subsisting and in full force and effect, has not been adjudged invalid or unenforceable, is valid and enforceable and has not been abandoned in whole or in part. Except as set forth in Schedule II hereto (as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof), no such Intellectual Property is the subject of any licensing or franchising agreement.

(e) The Existing Issuers set forth in Schedule VIII (as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof) identified as a Subsidiary of a Grantor are each such Grantor's only Subsidiaries existing on the date hereof. The Pledged Shares have been duly authorized and validly issued and, in the case of Grantors that are corporations, are fully paid and nonassessable and the holders thereof are not entitled to any preemptive, first refusal or other similar rights. Except as noted in Schedule VIII hereto (as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof), the Pledged Shares constitute 100% (or in the case of a Foreign Subsidiary, 65% of the voting issued shares) of the issued shares of Equity Interests of the Pledged Issuers as of the date hereof. All other shares of Equity Interests constituting Pledged Interests will be duly authorized and validly issued and, in the case of entities that are corporations, fully paid and nonassessable.

(f) To the knowledge of the Grantors, the Promissory Notes currently evidencing the Pledged Debt have been, and all other Promissory Notes from time to time

evidencing Pledged Debt, when executed and delivered, will have been, duly authorized, executed and delivered by the respective makers thereof, and, to the knowledge of the Grantors, all such Promissory Notes are or will be, as the case may be, legal, valid and binding obligations of such makers, enforceable against such makers in accordance with their respective terms, except as enforceability may be limited by general principles of equity or applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally.

(g) The policies currently evidencing the Insurance Assets or any other Insurance Assets listed on Schedule IX hereto (as amended, supplemented or otherwise modified from time to time) have been, and all other policies from time to time evidencing Insurance Assets, when executed and delivered, will have been, duly authorized, executed and delivered by the parties thereto and all such policies [or other Insurance Assets as may be relevant] are or will be, as the case may be, legal, valid and binding obligations of each party thereto, enforceable against such makers in accordance with their respective terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally.

(h) The Grantors are and will be at all times the sole and exclusive owners of, or otherwise have and will have adequate rights in, the Collateral free and clear of any Lien except for the Permitted Liens. No effective financing statement or other instrument similar in effect covering all or any part of the Collateral is on file in any recording or filing office except such as may have been filed to perfect or protect any Permitted Lien.

(i) No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority (other than an insurance-related Governmental Authority) or any other Person, is required for (i) the grant by any Grantor of the security interest purported to be created hereby in the Collateral or (ii) the exercise by the Agent of any of its rights and remedies hereunder, except, in the case of this clause (ii), as may be required in connection with any sale of any Pledged Interests by laws affecting the offering and sale of securities generally. No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority or any other Person, is required for the perfection of the security interest purported to be created hereby in the Collateral, except (A) for the filing under the Uniform Commercial Code as in effect in the applicable jurisdiction of the financing statements described in Schedule V hereto (as amended, supplemented or otherwise modified from time to time), all of which financing statements have been duly filed and are in full force and effect, (B) with respect to the perfection of the security interest created hereby in the United States Intellectual Property and Licenses, for the recording of the appropriate Assignment for Security, substantially in the form of Exhibit B hereto in the United States Patent and Trademark Office or the United States Copyright Office, as applicable, (C) with respect to the perfection of the security interest created hereby in foreign Intellectual Property and Licenses, for registrations and filings in jurisdictions located outside of the United States and covering rights in such jurisdictions relating to such foreign Intellectual Property and Licenses, (D) with respect to any action that may be necessary to obtain control of Collateral constituting Deposit Accounts, Electronic Chattel Paper, Investment Property or Letter-of-Credit Rights, the taking of such actions, and (E) the Agent's having possession of all Documents, Chattel Paper, Instruments and cash constituting Collateral (subclauses (A), (B), (C), (D) and (E), each a "Perfection Requirement" and collectively, the "Perfection Requirements").

(j) This Agreement creates a legal, valid and enforceable security interest in favor of the Agent, for the benefit of the Secured Parties, in the Collateral secured thereby, as security for the Secured Obligations. On the date hereof, the Perfection Requirements result in the perfection of such security interests. Such security interests are, or in the case of Collateral in which any Grantor obtains rights after the date hereof, will be, perfected, first priority security interests, subject in priority only to the Permitted Liens that, pursuant to the definition of the term "Permitted Liens", are not prohibited from being prior to the Liens in favor of the Agent, for the benefit of the Secured Parties, and the recording of such instruments of assignment described above. Such Perfection Requirements and all other action necessary or desirable to perfect and protect such security interest have been duly made or taken.

(k) As of the date hereof, no Grantor holds any Commercial Tort Claims in respect of which a claim has been filed in a court of law or a written notice by an attorney has been given to a potential defendant, except for such claims described in Schedule VI (as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof).

(l) With respect to each Grantor and its Subsidiaries that is a partnership or a limited liability company, each such Person has irrevocably opted into (and has caused each of its Subsidiaries that is a partnership or a limited liability company, and a Pledged Issuer to opt into) Article 8 of the Uniform Commercial Code (collectively, the "Certificated Entities"). Such interests are securities for purposes of Article 8 of any relevant Uniform Commercial Code.

(m) Each Grantor has good and marketable title to, valid leasehold interests in, or valid licenses to use, all property and assets material to its business, free and clear of all Liens, except Permitted Liens. All such properties and assets are in good working order and condition, ordinary wear and tear excepted.

SECTION 6. Covenants as to the Collateral. So long as any of the Secured Obligations (whether or not due) shall remain unpaid or any Lender shall have any Commitment under the Financing Agreement, unless the Agent shall otherwise consent in writing upon direction of the Required Lenders:

(a) Further Assurances. Each Grantor will (x) execute and deliver, and cause each of its Subsidiaries to execute and deliver, to the Agent for the benefit of the Agent and the Lenders, at the time of the delivery of the financial statements of the Borrower and its Subsidiaries required by Section 6.01(a)(i) and (ii) of the Financing Agreement (in addition to any requirements hereunder to deliver a Pledge Amendment in respect of Additional Collateral), schedules identifying and describing any changes to the Collateral since the date of the last such schedules delivered to the Agent for the benefit of the Agent and the Lenders (and modify this Agreement by amending the Schedules hereto to include any Additional Collateral), and (y) take such action and execute, acknowledge and deliver such agreements, instruments or other documents as the Agent may reasonably request from time to time with respect to any Collateral or any Additional Collateral (including with respect to any Insurance Holdings and any Insurance Assets when otherwise required pursuant to the terms hereof) in order (i) to perfect and protect, or maintain the perfection of, the security interest and Lien purported to be created

hereby in the relevant jurisdiction as necessary or advisable under applicable law; (ii) to enable the Agent to exercise and enforce its rights and remedies hereunder in respect of the Collateral; or (iii) otherwise to effect the purposes of this Agreement, including, without limitation: (A) marking conspicuously all Chattel Paper, Instruments and Licenses beneficially owned by such Grantor and not held for sale or disposition in the ordinary course of such Grantor's business, and, at the request of the Agent, all of its Records pertaining to the Collateral with a legend, in form and substance reasonably satisfactory to the Agent, indicating that such Chattel Paper, Instrument, License or Collateral is subject to the security interest created hereby, (B) if any Account shall be evidenced by a Promissory Note or other Instrument or Chattel Paper, delivering and pledging to the Agent such Promissory Note, other Instrument or Chattel Paper, duly endorsed and accompanied by executed instruments of transfer or assignment, all in form and substance reasonably satisfactory to the Agent, (C) executing and filing (to the extent, if any, that such Grantor's signature is required thereon) or authenticating the filing of, such financing or continuation statements, or amendments thereto, (D) with respect to Intellectual Property hereafter existing and not covered by an appropriate security interest grant, the executing and recording in the United States Patent and Trademark Office or the United States Copyright Office, as applicable, delivery of all appropriate instruments granting a security interest, as may be necessary or desirable or that the Agent may request in order to perfect and preserve the security interest purported to be created hereby, (E) delivering to the Agent irrevocable proxies in respect of the Pledged Interests, (F) furnishing to the Agent from time to time statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as the Agent may reasonably request, all in reasonable detail, (G) if any Collateral with a book value in excess of $250,000 shall be in the possession of a third party (including, without limitation, any landlord by virtue of Collateral being located on such landlord's premises leased to a Grantor), notifying such Person of the Agent's security interest created hereby and using commercially reasonable efforts to obtain a written agreement, in form and substance satisfactory to the Agent, waiving or subordinating any Liens of such Person in such Collateral, providing access to such Collateral in order to remove such Collateral from such premises during an Event of Default and acknowledging that such Person holds possession of the Collateral for the benefit of the Agent, (H) if at any time after the date hereof, any Grantor acquires or holds any Commercial Tort Claim, promptly notifying the Agent in a writing signed by such Grantor setting forth a brief description of such Commercial Tort Claim and granting to the Agent a security interest therein and in the proceeds thereof, which writing shall incorporate the provisions hereof and shall be in form and substance reasonably satisfactory to the Agent, and (I) taking all actions required by law in any relevant Uniform Commercial Code jurisdiction, or by other law as applicable in any foreign jurisdiction. No Grantor shall take or fail to take any action which would in any manner impair the validity or enforceability of the Agent's security interest in and Lien on any Collateral.

(b) Location of Equipment and Inventory. Each Grantor will keep the Equipment and Inventory (other than Equipment and Inventory sold in the ordinary course of business at the locations specified in Schedule III hereto (as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof) or, upon not less than thirty (30) days' prior written notice to the Agent accompanied by a new Schedule III hereto indicating each new location of the Equipment and Inventory, at such other locations in the United States as the Grantors may elect, provided that all action has been taken to (i) grant to the Agent a perfected, first priority security interest in such Equipment and Inventory (subject in

priority only to Permitted Liens that, pursuant to the definition of the term "Permitted Liens", are not prohibited from being prior to the Liens in favor of the Agent, for the benefit of the Secured Parties) and (ii) comply with 6(a)(G), if applicable

(c) Condition of Equipment. Each Grantor will maintain or cause the Equipment which is reasonably necessary or useful in the proper conduct of its business to be maintained and preserved in good condition, repair and working order as when acquired, ordinary wear and tear and casualty excepted, and will forthwith, or in the case of any loss or damage to any material Equipment promptly after the occurrence thereof, make or cause to be made all repairs, replacements and other improvements in connection therewith which are necessary or desirable, consistent with sound business practice.

(d) Insurance. Each Grantor will, at its own expense, maintain insurance with respect to the Collateral in accordance with the terms of the Financing Agreement. Each Grantor will, if so requested by the Agent, deliver to the Agent original or duplicate insurance policies as the Agent may reasonably request (to the extent not previously delivered to the Agent). Each Grantor will also, at the reasonable request of the Agent, execute and deliver to the extent not previously delivered, loss payee endorsements or evidence of additional insured status naming the Agent on behalf of the Lenders in form and substance reasonably satisfactory to the Agent (to the extent not previously delivered to the Agent).

(e) Provisions Concerning the Accounts and the Licenses.

(i) The Grantors shall, at its own expense, take all reasonable steps to enforce, collect and receive all amounts owing or to become due on the Accounts Receivable of the Grantors or any of their Subsidiaries and may settle, adjust or compromise the amount due in the ordinary course of business consistent with past practices. After the occurrence and during the continuance of an Event of Default, the Agent may send a notice of assignment and/or notice of the Lenders' security interest to any and all Account Debtors or third parties holding or otherwise concerned with any of the Collateral, and thereafter the Agent or its designee shall have the sole right to collect the Accounts Receivable and/or take possession of the Collateral and the books and records relating thereto and/or to enforce collection of any such Accounts Receivable, and/or to settle, adjust or compromise the amount or payment thereof. After receipt by any Grantor of a notice from the Agent that the Agent has notified, intends to notify, or has enforced or intends to enforce a Grantor's rights against the Account Debtors or obligors under any Accounts Receivable as referred to in the proviso to the immediately preceding sentence after the occurrence and during the continuance of an Event of Default, (A) all amounts and proceeds (including Instruments) received by such Grantor in respect of the Accounts Receivable shall be received in trust for the benefit of the Agent hereunder, shall be segregated from other funds of such Grantor and shall be forthwith paid over to the Agent or its designated agent in the same form as so received (with any necessary endorsement) to be applied as specified in Section 9(d) hereof, and (B) such Grantor will not adjust, settle or compromise the amount or payment of any Account Receivable or extend the time of payment thereof, or release wholly or partly any Account Debtor or obligor thereof, or allow any allowance, credit or discount thereon.

(ii) Each Grantor hereby appoints the Agent or its designee on

behalf of the Agent as the Grantors' attorney-in-fact with power exercisable during the continuance of an Event of Default to endorse any Grantor's name upon any notes, acceptances, checks, drafts, money orders or other evidences of payment relating to the Accounts Receivable, to sign any Grantor's name on any invoice or bill of lading relating to any of the Accounts Receivable, drafts against Account Debtors with respect to Accounts Receivable, assignments and verifications of Accounts Receivable and notices to Account Debtors with respect to Accounts Receivable, to send verification of Accounts Receivable, and to notify the Postal Service authorities to change the address for delivery of mail addressed to any Grantor to such address as the Agent or its designee may designate and to do all other acts and things necessary to carry out this Agreement. All acts of said attorney or designee are hereby ratified and approved, and said attorney or designee shall not be liable for any acts of omission or commission (other than acts of omission or commission constituting gross negligence or willful misconduct as determined by a final judgment of a court of competent jurisdiction), or for any error of judgment or mistake of fact or law; this power being coupled with an interest is irrevocable until all of the Loans and other Obligations under the Loan Documents are paid in full, all Commitments are terminated and all of the Loan Documents are terminated.

(iii) Nothing herein contained shall be construed to constitute the Agent as agent of any Grantor for any purpose whatsoever, and the Agent and Secured Parties shall not be responsible or liable for any shortage, discrepancy, damage, loss or destruction of any part of the Collateral wherever the same may be located and regardless of the cause thereof (other than from acts of omission or commission constituting gross negligence or willful misconduct as determined by a final judgment of a court of competent jurisdiction). The Agent and Secured Parties shall not, under any circumstance or in any event whatsoever, have any liability for any error or omission or delay of any kind occurring in the settlement, collection or payment of any of the Accounts Receivable or any instrument received in payment thereof or for any damage resulting therefrom (other than acts of omission or commission constituting gross negligence or willful misconduct as determined by a final judgment of a court of competent jurisdiction). The Agent, by anything herein or in any assignment or otherwise, does not assume any of the obligations under any contract or agreement assigned to the Agent and shall not be responsible in any way for the performance by any Grantor of any of the terms and conditions thereof.

(iv) Upon the occurrence and during the continuance of any material breach or default under any material License by any party thereto other than a Grantor, (A) the relevant Grantor will, promptly after obtaining knowledge thereof, give the Agent written notice of the nature and duration thereof, specifying what action, if any, it has taken and proposes to take with respect thereto, and (B) after the occurrence and during the continuance of an Event of Default, each Grantor will, upon written instructions from the Agent and at such Grantor's expense, take such action as the Agent may deem necessary or advisable in respect thereof.

(f) Provisions Concerning the Pledged Interests. Each Grantor will:

(i) not make or consent to any amendment or other modification or waiver with respect to any Pledged Interests or enter into any agreement or permit to exist any restriction with respect to any Pledged Interests other than pursuant to the

Loan Documents; and

(ii) not permit the issuance of (A) any additional shares of any class of Equity Interests of any Pledged Issuer unless pledged to the Agent hereunder, (B) any securities convertible voluntarily by the holder thereof or automatically upon the occurrence or non-occurrence of any event or condition into, or exchangeable for, any such shares of Equity Interests or (C) any warrants, options, contracts or other commitments entitling any Person to purchase or otherwise acquire any such shares of Equity Interests.

(g) Intellectual Property.

(i) If applicable, each Grantor has duly executed and delivered the applicable Assignment for Security in the form attached hereto as Exhibit B. Each Grantor (either itself or through licensees) will, and will cause each licensee thereof to, take all reasonable action necessary to maintain all of the Intellectual Property that is necessary for the conduct of such Grantor's business in full force and effect, including, without limitation, using the proper statutory notices and markings and using the Trademarks on each applicable trademark class of goods in order to so maintain the Trademarks in full force, free from any claim of abandonment for non-use, and no Grantor will (nor permit any licensee thereof to) do any act or knowingly omit to do any act whereby any Intellectual Property may become invalidated.

(ii) Notwithstanding the foregoing, so long as no Event of Default has occurred and is continuing, no Grantor shall have an obligation to use or to maintain any Intellectual Property (A) that relates solely to any product or work, that has been, or is in the process of being, discontinued, abandoned or terminated, (B) that is being replaced with Intellectual Property substantially similar to the Intellectual Property that may be abandoned or otherwise become invalid, so long as the failure to use or maintain such Intellectual Property does not materially adversely affect the validity of such replacement Intellectual Property and so long as such replacement Intellectual Property is subject to the Lien created by this Agreement or (C) that is substantially the same as any other Intellectual Property that is in full force, so long as the failure to use or maintain such Intellectual Property does not materially adversely affect the validity of such replacement Intellectual Property and so long as such other Intellectual Property is subject to the Lien and security interest created by this Agreement.

(iii) Each Grantor will cause to be taken all reasonably necessary steps in any proceeding before the United States Patent and Trademark Office and the United States Copyright Office or any similar office or agency in any other country or political subdivision thereof to maintain each registration of the Intellectual Property (other than Intellectual Property not necessary for the conduct of such Grantor's business described in clause (ii) above), including, without limitation, filing of renewals, affidavits of use, affidavits of incontestability and opposition, interference and cancellation proceedings and payment of maintenance fees, filing fees, taxes or other governmental fees. If any Intellectual Property (other than the Intellectual Property not necessary for the conduct of such Grantor's business as described in (ii) above) is infringed, misappropriated, diluted or otherwise violated in any material respect by a third party, the Grantors shall (x) upon obtaining knowledge of such infringement, misappropriation, dilution or other violation, promptly notify the Agent and (y) to the extent the Grantors shall deem appropriate under the circumstances, promptly sue for infringement, misappropriation, dilution or other

violation, seek injunctive relief where appropriate and recover any and all damages for such infringement, misappropriation, dilution or other violation, or take such other actions as the Grantors shall deem appropriate under the circumstances to protect such Intellectual Property.

(iv) Upon the acquisition of any Intellectual Property or License by any Grantor, such Grantor shall promptly, but in any event not later than 30 days after the acquisition thereof, furnish to the Agent notice of the acquisition of such Intellectual Property or License and shall within 30 days thereafter take such actions as are required or advisable to perfect the Agent's lien in such property. Notwithstanding anything herein to the contrary, no failure on the part of a prior owner of any Intellectual Property or License acquired by any Grantor to comply with the covenants imposed on the Grantors under Section 6(g) of this Agreement will be attributed to or otherwise deemed a breach of those covenants by any Grantor acquiring such Intellectual Property or License.

(v) Notwithstanding anything herein to the contrary, upon the occurrence and during the continuance of an Event of Default, no Grantor may abandon or otherwise permit any material Intellectual Property to become invalid without the prior written consent of the Agent, and if any material Intellectual Property is infringed, misappropriated, diluted or otherwise violated in any material respect by a third party, the Grantors will take such action as the Agent shall reasonably deem appropriate under the circumstances to protect such Intellectual Property. Upon the occurrence and during the continuance of any Event of Default, the Agent shall have the right but shall in no way be obligated to file applications for protection of the Intellectual Property and/or bring suit in the name of any Grantor, the Agent or the Secured Parties to enforce the Intellectual Property and any License thereunder. In the event of such suit, each Grantor shall, at the reasonable request of the Agent, do any and all lawful acts and execute any and all documents requested by the Agent in aid of such enforcement and the Grantors shall promptly reimburse and indemnify the Agent for all costs and expenses incurred by the Agent in the exercise of its rights under this Section 6(g)(vi) in accordance with Section 10.04 of the Financing Agreement.

(vi) In the event that any Grantor shall (A) obtain rights to any new Trademarks necessary for the operation of its business, or any reissue, renewal or extension of any existing Trademark necessary for the operation of its business, (B) obtain rights to or develop any new patentable inventions, or become entitled to the benefit of any Patent, or any reissue, division, continuation, renewal, extension or continuation-in-part of any existing Patent or any improvement thereof (whether pursuant to any license or otherwise), (C) obtain rights to or develop any new works protectable by Copyright, or become entitled to the benefit of any rights with respect to any Copyright or any registration or application therefor, or any renewal or extension of any existing Copyright or any registration or application therefor, or (D) obtain rights to or develop new Other Intellectual Property, the provisions of Section 2 hereof shall automatically apply thereto and such Grantor shall give to the Agent prompt notice thereof in accordance with the terms of this Agreement and the Financing Agreement. Except as otherwise provided herein or in the Financing Agreement each Grantor, either itself or through any agent, employee, licensee or designee, shall give the Agent written notice of each application submitted by it for the registration of any Trademark or Copyright or the issuance of any Patent with the United States Patent and Trademark Office or the United States Copyright Office, as applicable, or in any similar office or agency of the United States or any country or any political subdivision

thereof.

(vii) Each Grantor shall execute, authenticate and deliver any and all assignments, agreements, instruments, documents and papers as the Agent may reasonably request to evidence the Agent's security interest hereunder in such Intellectual Property and the General Intangibles of such Grantor relating thereto or represented thereby, and each Grantor hereby appoints the Agent its attorney-in-fact to execute and/or authenticate and file all such writings for the foregoing purposes, all acts of such attorney being hereby ratified and confirmed, and such power (being coupled with an interest) shall be irrevocable until the date on which all of the Secured Obligations have been paid in full in cash after the termination of each Lender's Commitment and each of the Loan Documents.

(h) Deposit, Commodities and Securities Accounts. (i) Each Grantor shall (x) establish and maintain cash management services of a type and on terms reasonably satisfactory to the Agent at one or more of the banks reasonably acceptable to the Agent set forth on Schedule IV (each a "Cash Management Bank") and (y) deposit or cause to be deposited promptly, and in any event no later than the next Business Day after the date of receipt thereof, all proceeds in respect of any Collateral, all Collections (of a nature susceptible to a deposit in a bank account) and all other amounts received by any Grantor (including payments made by Account Debtors directly to any Grantor) into a Cash Management Account, (ii) on or prior to the Effective Date, the Grantors shall, with respect to each Cash Management Account, deliver to the Agent a Cash Management Agreement with respect to such Cash Management Account. From and after the Effective Date, the Grantors shall not maintain, and shall not permit any of their Subsidiaries to maintain, cash, Cash Equivalents or other amounts in any Deposit Account or Securities Account, unless the Agent shall have received a Cash Management Agreement in respect of each such Deposit Account or Securities Account, (iii) upon the terms and subject to the conditions set forth in a Cash Management Agreement with respect to a Cash Management Account, upon the direction of the Agent upon an Event of Default having occurred and continuing, all amounts received in such Cash Management Account shall be wired each Business Day into the Agent's Account, (iv) any such securities, cash, investments and other items so received by the Agent shall be held as additional Collateral for the Secured Obligations or applied in accordance with Section 9 hereof, (v) so long as no Default or Event of Default has occurred and is continuing, the Borrower may amend Schedule IV to add or replace a Cash Management Bank or Cash Management Account; provided, however, that prior to the time of the opening of such Cash Management Account, each Grantor and such prospective Cash Management Bank shall have executed and delivered to the Agent a Cash Management Agreement, (vi) each Grantor shall close any of its Cash Management Accounts (and establish replacement cash management accounts in accordance with the foregoing sentence) promptly and in any event within 30 days of notice from the Agent that the creditworthiness of any Cash Management Bank is no longer acceptable to the Agent, or that the operating performance, funds transfer, or availability procedures or performance of such Cash Management Bank with respect to Cash Management Accounts or the Agent's liability under any Cash Management Agreement with such Cash Management Bank is no longer acceptable in the Agent's reasonable judgment, (vii) the Cash Management Accounts shall be cash collateral accounts, with all cash, checks and similar items of payment in such accounts securing payment of the Obligations, and in which the Grantors are hereby deemed to have granted a Lien to the Agent for the benefit of the Agent and the Lenders, and (viii) all checks, drafts, notes, money orders, acceptances, cash and other

evidences of Indebtedness received directly by any Grantor from any of its Account Debtors, as proceeds from Accounts of such Grantor or as proceeds of any other Collateral shall be held by such Grantor in trust for the Agent and the Lenders and if of a nature susceptible to a deposit in a bank account, upon receipt be deposited by such Grantor in original form and no later than the next Business Day after receipt thereof into a Cash Management Account or other bank account referenced in the definition of Cash Management Accounts as excluded from the scope thereof. Each Grantor shall not commingle such collections with the proceeds of any assets, if any, not included in the Collateral. No checks, drafts or other instrument received by the Agent shall constitute final payment to the Agent unless and until such instruments have actually been collected.

(i) Control. Each Grantor hereby agrees to take any or all action that may be necessary or desirable or that the Agent may request in order for the Agent to obtain control in accordance with Sections 9-104, 9-105, 9-106, and 9-107 of the Code with respect to the following Collateral: (i) Deposit Accounts, (ii) Electronic Chattel Paper, (iii) Investment Property and (iv) Letter-of-Credit Rights. Each Grantor hereby acknowledges and agrees that any agent or designee of the Agent shall be deemed to be a "secured party" with respect to the Collateral under the control of such agent or designee for all purposes.

(j) Records; Inspection and Reporting.

(i) Each Grantor shall keep adequate records concerning the Accounts, Chattel Paper and Pledged Interests. Each Grantor shall permit the Agent, or any agents or representatives thereof or such professionals or other Persons as the Agent may designate, upon reasonable advance notice, at the expense of the Grantors (provided that so long as no Event of Default shall have occurred and be continuing, the Grantors shall pay for only (I) one examination described in the following clause (A) per year, (II) one visit and inspection described in the following clause (B) per year, (III) one verification described in the following clause (C) per year, (IV) one audit, physical count, appraisal, valuation or examination described in the following clause (D) per year, and (V) one discussion described in the following clause (E) per year): (A) to examine and make copies of and abstracts from such Grantor's books and records, (B) to visit and inspect its properties, (C) to verify materials, leases, notes, Accounts, Inventory and other assets of such Grantor from time to time, (D) to conduct audits, physical counts, appraisals and/or valuations, or examinations at the locations of such Grantor and (E) to discuss such Grantor's affairs, finances and accounts with any of its directors, officers, managerial employees, independent accountants or any of its other representatives. In furtherance of the foregoing, each Grantor hereby authorizes its independent accountants, and the independent accountants of each of its Subsidiaries, to discuss the affairs, finances and accounts of such Person (independently or together with representatives of such Person) with the agents and representatives of the Agent in accordance with this Section 6(j).

(ii) Except as otherwise expressly permitted by Section 6.02(j) of the Financing Agreement, no Grantor shall, without prior written notice to the Agent, amend, modify or otherwise change (A) its name, organizational identification number or FEIN (B) its jurisdiction of organization as set forth in Schedule I hereto or (C) its chief executive office as set forth in Schedule III hereto. Each Grantor shall promptly notify the Agent upon obtaining an

organizational identification number, if on the date hereof such Grantor did not have such identification number.

(iii) The Borrowers acknowledge that pursuant to this Section 6(j), representatives of the Lenders and the Agent may visit any or all of the Grantors and/or conduct an inspection, including audits, valuations, assessments, appraisals, and/or examinations of any or all of the Grantors at any time and from time to time provided, however, that so long as no Event of Default shall have occurred and be continuing, the Borrower shall pay for only one such inspection per year. The Borrower agrees to pay (i) out-of-pocket costs and reasonable expenses incurred in connection with all such visits, inspections, audits, physical counts, valuations, assessments, appraisals, and/or examinations and (ii) the cost of all visits, inspections, audits, physical counts, valuations, assessments, appraisals, and/or examinations conducted by a third party on behalf of the Agent or the Lenders.

(k) Partnership and Limited Liability Company Interest. Except with respect to partnership interests and membership interests evidenced by a certificate, which certificate has been pledged and delivered to the Agent pursuant to Section 4 hereof, no Grantor that is a partnership or a limited liability company shall, nor shall any Grantor with any Subsidiary that is a partnership or a limited liability company, permit such partnership interests or membership interests to (i) be dealt in or traded on securities exchanges or in securities markets, (ii) become a security for purposes of Article 8 of any relevant Uniform Commercial Code, (iii) become an investment company security within the meaning of Section 8-103 of any relevant Uniform Commercial Code or (iv) be evidenced by a certificate. Each Grantor agrees that such partnership interests or membership interests shall constitute General Intangibles.

(l) After-Acquired Real Property. Upon the acquisition by any Grantor after the date hereof of any fee interest in any real property (wherever located) (each such interest being a "New Facility"), or leasehold interest in any real property, such Grantor shall promptly notify the Agent thereof, setting forth with specificity a description of the interest acquired, the location of the real property, any structures or improvements thereon and either an appraisal or such Grantor's good-faith estimate of the current value of such real property (for purposes of this Section, the "Current Value"). Upon the acquisition by any Grantor after the date hereof of any interest in any (i) New Facility with a Current Value in excess of $250,000 individually, or $1,000,000 in the aggregate, such Grantor shall deliver a Mortgage (and, with respect to any New Facility with a Current Value of $2,500,000 or more (or, with respect to the delivery of title insurance, $1,000,000 or more) at the time of such acquisition, any other real property deliverables (including, without limitation, appraisals, title insurance and a Phase 1 report)) in favor of the Agent for the benefit of the Secured Parties, in each case in form reasonably acceptable to the Agent with respect to such New Facility and (ii) any leasehold interest in a property at which Collateral with a value of $50,000 or more is located, such Grantor shall use its commercially reasonable efforts to provide a landlord’s waiver, in form reasonably acceptable to the Agent, with respect to such leasehold interest. The Borrower shall pay all fees and expenses, including reasonable attorneys' fees and expenses, and all customary title insurance charges and premiums, in connection with each Grantor's obligations under this Section 6(l). It is understood by the parties hereto that no leasehold mortgages shall be requested with respect to any interest in real property consisting of office space so long as a landlord

waiver in a form reasonably acceptable to the Agent has been obtained with respect to such real property.

(m) Validity of Security Documents. Each Security Agreement, each Mortgage or each other security document, after delivery thereof pursuant hereto, shall at all times continue to create a valid and perfected and, except to the extent permitted by the terms hereof or thereof, first priority Lien in favor of the Agent for the benefit of the Agent and the Lenders on any Collateral purported to be covered thereby.

SECTION 7. Voting Rights, Dividends, Etc. in Respect of the Pledged Interests.

(a) So long as no Event of Default shall have occurred and be continuing:

(i) each Grantor may exercise any and all voting and other consensual rights pertaining to any Pledged Interests for any purpose not inconsistent with the terms of this Agreement or the Financing Agreement; provided, however, that (A) none of the Grantors will exercise or refrain from exercising any such right, as the case may be, that could reasonably be expected to have a Material Adverse Effect and (B) each Grantor will give the Agent at least five (5) Business Days' notice of the manner in which it intends to exercise, or the reasons for refraining from exercising, any such right which could reasonably be expected to have a Material Adverse Effect;

(ii) each of the Grantors may receive and retain any and all dividends, interest or other distributions paid in respect of the Pledged Interests to the extent permitted by the Financing Agreement and subject to Section 4(b) hereof; and

(iii) the Agent will execute and deliver (or cause to be executed and delivered) to a Grantor all such proxies and other instruments as such Grantor may reasonably request for the purpose of enabling such Grantor to exercise the voting and other rights which it is entitled to exercise pursuant to Section 7(a)(i) hereof and to receive the dividends, interest and/or other distributions which it is authorized to receive and retain pursuant to Section 7(a)(ii) hereof.

(b) Upon the occurrence and during the continuance of an Event of Default:

(i) all rights of each Grantor to exercise the voting and other consensual rights which it would otherwise be entitled to exercise pursuant to Section 7(a)(i) hereof, and to receive the dividends, distributions, interest and other payments that it would otherwise be authorized to receive and retain pursuant to Section 7(a)(ii) hereof, shall cease, and all such rights shall thereupon become vested in the Agent, which shall thereupon have the sole right to exercise such voting and other consensual rights and to receive and hold as Pledged Interests such dividends, distributions and interest payments;

(ii) the Agent is authorized to notify each debtor with respect to the Pledged Debt to make payment directly to the Agent (or its designee) and may collect any and all moneys due or to become due to any Grantor in respect of the Pledged Debt, and each of

the Grantors hereby authorizes each such debtor to make such payment directly to the Agent (or its designee) without any duty of inquiry;

(iii) without limiting the generality of the foregoing, the Agent may at its option exercise any and all rights of conversion, exchange, subscription or any other rights, privileges or options pertaining to any of the Pledged Interests as if it were the absolute owner thereof, including, without limitation, the right to exchange, in its discretion, any and all of the Pledged Interests upon the merger, consolidation, reorganization, recapitalization or other adjustment of any Pledged Issuer, or upon the exercise by any Pledged Issuer of any right, privilege or option pertaining to any Pledged Interests, and, in connection therewith, to deposit and deliver any and all of the Pledged Interests with any committee, depository, transfer agent, registrar or other designated agent upon such terms and conditions as it may determine; and

(iv) all dividends, distributions, interest and other payments that are received by any of the Grantors contrary to the provisions of Section 7(b)(i) hereof shall be received in trust for the benefit of the Agent, shall be segregated from other funds of the Grantors, and shall be forthwith paid over to the Agent as Pledged Interests in the exact form received with any necessary indorsement and/or appropriate stock powers duly executed in blank, to be held by the Agent as Pledged Interests and as further collateral security for the Secured Obligations.

SECTION 8. Additional Provisions Concerning the Collateral.

(a) To the maximum extent permitted by applicable law, and for the purpose of taking any action that the Agent may deem reasonably necessary or advisable to accomplish the purposes of this Agreement, each Grantor hereby (i) authorizes the Agent to execute any such agreements, instruments or other documents in such Grantor's name and to file such agreements, instruments or other documents in such Grantor's name and in any appropriate filing office, (ii) authorizes the Agent at any time and from time to time to file, one or more financing or continuation statements and amendments thereto, relating to the Collateral (including, without limitation, any such financing statements that (A) describe the Collateral as "all assets" or "all personal property" (or words of similar effect) or that describe or identify the Collateral by type or in any other manner as the Agent may determine, regardless of whether any particular asset of such Grantor falls within the scope of Article 9 of the Uniform Commercial Code, and (B) contain any other information required by Part 5 of Article 9 of the Code for the sufficiency or filing office acceptance of any financing statement, continuation statement or amendment, including, without limitation, whether such Grantor is an organization, the type of organization and any organizational identification number issued to such Grantor) and (iii) ratifies such authorization to the extent that the Agent has filed any such financing statements, continuation statements, or amendments thereto, prior to the date hereof. A photocopy or other reproduction of this Agreement or any financing statement covering the Collateral or any part thereof shall be sufficient as a financing statement where permitted by law.

(b) Each Grantor hereby irrevocably appoints the Agent as its attorney-in-fact and proxy, with full authority in the place and stead of such Grantor and in the name of such Grantor or otherwise, effective upon the occurrence and during the continuance of an Event of Default, in the Agent's discretion (other than as to clause (vi) below which

appointment is effective whether or not an Event of Default has occurred or is continuing), to take any action and to execute any instrument that the Agent may deem necessary or advisable to accomplish the purposes of this Agreement (subject to the rights of a Grantor under Section 6 hereof and Section 7(a) hereof), (i) to ask, demand, collect, sue for, recover, compound, receive and give acquittance and receipts for moneys due and to become due under or in respect of any Collateral, (ii) to receive, endorse, and collect any drafts or other Instruments, Documents and Chattel Paper in connection with clause (i) or (ii) above, (iii) to receive, indorse and collect all Instruments made payable to such Grantor representing any dividend, interest payment or other distribution in respect of any Pledged Interests and to give full discharge for the same, (iv) to file any claims or take any action or institute any proceedings which the Agent may deem necessary or desirable for the collection of any Collateral or otherwise to enforce the rights of the Agent and the Lenders with respect to any Collateral, (v) to execute assignments, licenses and other documents to enforce the rights of the Agent and the Lenders with respect to any Collateral, (vi) to pay or discharge taxes or Liens levied or placed upon or threatened against the Collateral, the legality or validity thereof and the amounts necessary to discharge the same to be determined by the Agent in its sole discretion, and such payments made by the Agent to become Obligations of such Grantor to the Agent, due and payable immediately without demand, and (vii) to sign and endorse any invoices, freight or express bills, bills of lading, storage or warehouse receipts, assignments, verifications and notices in connection with Accounts, Chattel Paper and other documents relating to the Collateral. This power is coupled with an interest and is irrevocable until the date on which all of the Secured Obligations have been paid in full in cash after the termination of each Lender's Commitment and each of the Loan Documents.

(c) For the purpose of enabling the Agent to exercise rights and remedies hereunder upon the occurrence and during the continuance of an Event of Default, at such time as the Agent shall be lawfully entitled to exercise such rights and remedies, and for no other purpose, each Grantor hereby (i) grants to the Agent an irrevocable, non-exclusive license (exercisable without payment of royalty or other compensation to any Grantor) to use, assign, license or sublicense any Intellectual Property now or hereafter owned by any Grantor, wherever the same may be located, including in such license reasonable access to all media in which any of the licensed items may be recorded or stored and to all computer programs used for the compilation or printout thereof; and (ii) assigns to the Agent, to the extent assignable, all of its rights to any Intellectual Property now or hereafter licensed or used by any Grantor. Notwithstanding anything contained herein to the contrary, but subject to any provisions of the Financing Agreement that limit or condition the right of a Grantor to dispose of its property and Section 6(g) hereof, so long as no Event of Default shall have occurred and be continuing, each Grantor may exploit, use, enjoy, protect, license, sublicense, assign, sell, dispose of or take other actions with respect to the Intellectual Property in the ordinary course of its business. In furtherance of the foregoing, unless an Event of Default shall have occurred and be continuing, the Agent shall from time to time, upon the request of a Grantor, execute and deliver any instruments, certificates or other documents, in the form so requested, which such Grantor shall have certified are appropriate (in such Grantor's judgment) to allow it to take any action permitted above (including relinquishment of the license provided pursuant to this clause (c) as to any Intellectual Property). Further, upon the date on which all of the Secured Obligations have been paid in full in cash after the termination of each Lender's Commitment and each of the Loan Documents, the Agent (subject to Section 13(e) hereof) shall release and reassign to the Grantors all of the Agent's right, title and interest in and to the Intellectual Property, and the Licenses, all

without recourse, representation or warranty whatsoever and at the Grantors' sole expense. The exercise of rights and remedies hereunder by the Agent shall not terminate the rights of the holders of any licenses or sublicenses theretofore granted by any Grantor in accordance with the second sentence of this clause (c). Each Grantor hereby releases the Agent from any claims, causes of action and demands at any time arising out of or with respect to any actions taken or omitted to be taken by the Agent under the powers of attorney granted herein other than actions taken or omitted to be taken through the Agent's gross negligence or willful misconduct, as determined by a final determination of a court of competent jurisdiction.

(d) Upon the occurrence and during the continuance of a Default if any Grantor fails to perform any agreement or obligation contained herein the Agent may itself perform, or cause performance of, such agreement or obligation, in the name of such Grantor or the Agent, and the expenses of the Agent incurred in connection with such performance shall be jointly and severally payable by the Grantors pursuant to Section 10.04 of the Financing Agreement and shall be secured by the Collateral.

(e) The powers conferred on the Agent hereunder are solely to protect its interest in the Collateral and shall not impose any duty upon it to exercise any such powers. Other than the exercise of reasonable care to assure the safe custody of any Collateral in its possession and the accounting for moneys actually received by it hereunder, the Agent shall have no duty as to any Collateral or as to the taking of any necessary steps to preserve rights against prior parties or any other rights pertaining to any Collateral and shall be relieved of all responsibility for any Collateral in its possession upon surrendering it or tendering surrender of it to any of the Grantors (or whomsoever shall be lawfully entitled to receive the same or as a court of competent jurisdiction shall direct). The Agent shall be deemed to have exercised reasonable care in the custody and preservation of any Collateral in its possession if such Collateral is accorded treatment substantially equal to that which the Agent accords its own property, it being understood that the Agent shall not have responsibility for ascertaining or taking action with respect to calls, conversions, exchanges, maturities, tenders or other matters relating to any Collateral, whether or not the Agent has or is deemed to have knowledge of such matters. The Agent shall not be liable or responsible for any loss or damage to any of the Collateral, or for any diminution in the value thereof, by reason of the act or omission of any warehouseman, carrier, forwarding agency, consignee or other agent or bailee selected by the Agent in good faith.

(f) Anything herein to the contrary notwithstanding (i) each Grantor shall remain liable under the Licenses and otherwise in respect of the Collateral to the extent set forth therein to perform all of its obligations thereunder to the same extent as if this Agreement had not been executed, (ii) the exercise by the Agent of any of its rights hereunder shall not release any Grantor from any of its obligations under the Licenses or otherwise in respect of the Collateral, and (iii) the Agent shall not have any obligation or liability by reason of this Agreement under the Licenses or otherwise in respect of the Collateral, nor shall the Agent be obligated to perform any of the obligations or duties of any Grantor thereunder or to take any action to collect or enforce any claim for payment assigned hereunder.

(g) Upon the occurrence and during the continuance of a Default or an Event of Default, the Agent may at any time in its discretion (i) without notice to any Grantor, transfer or register in the name of the Agent or any of its nominees any or all of the Pledged

Interests, subject only to the revocable rights of such Grantor under Section 7(a) hereof, and (ii) exchange certificates or Instruments constituting Pledged Interests for certificates or Instruments of smaller or larger denominations.

SECTION 9. Remedies Upon Default. If any Event of Default shall have occurred and be continuing:

(a) The Agent may exercise in respect of the Collateral, in addition to any other rights and remedies provided for herein or otherwise available to it, all of the rights and remedies of a secured party upon default under the Code (whether or not the Code applies to the affected Collateral), and also may (i) take absolute control of the Collateral, including, without limitation, transfer into the Agent's name or into the name of its nominee or nominees (to the extent the Agent has not theretofore done so) and thereafter receive, for the benefit of the Agent and the Lenders, all payments made thereon, give all consents, waivers and ratifications in respect thereof and otherwise act with respect thereto as though it were the outright owner thereof, (ii) require each Grantor to, and each Grantor hereby agrees that it will at its expense and upon request of the Agent forthwith, assemble all or part of the Collateral as directed by the Agent and make it available to the Agent at a place or places to be designated by the Agent that is reasonably convenient to both parties, and the Agent may enter into and occupy any premises owned or leased by any Grantor where the Collateral or any part thereof is located or assembled for a reasonable period in order to effectuate the Agent's rights and remedies hereunder or under law, without obligation to any Grantor in respect of such occupation, and (iii) without notice except as specified below and without any obligation to prepare or process the Collateral for sale, (A) sell the Collateral or any part thereof in one or more parcels at public or private sale, at any of the Agent's offices, at any exchange or broker's board or elsewhere, for cash, on credit or for future delivery, and at such price or prices and upon such other terms as the Agent may deem commercially reasonable and/or (B) lease, license or otherwise dispose of the Collateral or any part thereof upon such terms as the Agent may deem commercially reasonable. The Agent or any other Secured Party or any of their respective Affiliates may be the purchaser, licensee, assignee or recipient of the Collateral or any part thereof at any such sale and shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold, assigned or licensed at such sale, to use and apply any of the Secured Obligations owed to such person as a credit on account of the purchase price of the Collateral or any part thereof payable by such person at such sale. Each Grantor agrees that, to the extent notice of sale or any other disposition of the Collateral shall be required by law, at least five (5) days' prior notice to the applicable Grantor of the time and place of any public sale or the time after which any private sale or other disposition of the Collateral is to be made shall constitute reasonable notification. The Agent shall not be obligated to make any sale or other disposition of Collateral regardless of notice of sale having been given. The Agent may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned. Each Grantor hereby waives any claims against the Agent and the Lenders arising by reason of the fact that the price at which the Collateral may have been sold at a private sale was less than the price which might have been obtained at a public sale or was less than the aggregate amount of the Secured Obligations, even if the Agent accepts the first offer received and does not offer the Collateral to more than one offeree, and waives all rights that such Grantor may have to require that all or any part of the Collateral be marshaled upon any sale (public or

private) thereof. Each Grantor hereby acknowledges that (i) any such sale of the Collateral by the Agent shall be made without warranty, (ii) the Agent may specifically disclaim any warranties of title, possession, quiet enjoyment or the like, (iii) the Agent may bid (which bid may be, in whole or in part, in the form of cancellation of indebtedness), if permitted by law, for the purchase, lease, license or other disposition of the Collateral or any portion thereof for the account of the Agent (on behalf of itself and the Lenders) and (iv) such actions set forth in clauses (i), (ii) and (iii) above shall not adversely affect the commercial reasonableness of any such sale of the Collateral. In addition to the foregoing, (i) upon written notice to any Grantor from the Agent, each Grantor shall cease any use of the Intellectual Property or any trademark, patent or copyright similar thereto for any purpose described in such notice; (ii) the Agent may, at any time and from time to time, upon ten (10) days' prior notice to any Grantor, license, whether general, special or otherwise, and whether on an exclusive or non-exclusive basis, any of the Intellectual Property, throughout the universe for such term or terms, on such conditions, and in such manner, as the Agent shall in its sole discretion determine; and (iii) the Agent may, at any time, pursuant to the authority granted in Section 8 hereof (such authority being effective upon the occurrence and during the continuance of an Event of Default), execute and deliver on behalf of a Grantor, one or more instruments of assignment of the Intellectual Property (or any application or registration thereof), in form suitable for filing, recording or registration in any country.

(b) In the event that the Agent determines to exercise its right to sell all or any part of the Pledged Interests pursuant to Section 9(a) hereof, each Grantor will, at such Grantor's expense and upon request by the Agent: (i) to the extent an exemption from applicable registration requirements is unavailable, execute and deliver, and cause each issuer of such Pledged Interests and the directors and officers thereof to execute and deliver, all such instruments and documents, and do or cause to be done all such other acts and things, as may be necessary or, in the opinion of the Agent, advisable to register such Pledged Interests under the provisions of the Securities Act, and to cause the registration statement relating thereto to become effective and to remain effective for such period as prospectuses are required by law to be furnished, and to make all amendments and supplements thereto and to the related prospectus which, in the opinion of the Agent , are necessary or advisable, all in conformity with the requirements of the Securities Act and the rules and regulations of the SEC applicable thereto, (ii) to the extent an exemption from applicable registration requirements is unavailable, cause each issuer of such Pledged Interests to qualify such Pledged Interests under the state securities or "Blue Sky" laws of each jurisdiction, and to obtain all necessary governmental approvals for the sale of the Pledged Interests, as requested by the Agent, (iii) cause each Pledged Issuer to make available to its securityholders, as soon as practicable, an earnings statement which will satisfy the provisions of Section 11(a) of the Securities Act, and (iv) do or cause to be done all such other acts and things as may be necessary to make such sale of such Pledged Interests valid and binding and in compliance with applicable law. Each Grantor acknowledges the impossibility of ascertaining the amount of damages which would be suffered by the Agent by reason of the failure by any Grantor to perform any of the covenants contained in this Section 9(b) and, consequently, agrees that, if any Grantor fails to perform any of such covenants, it shall pay, as liquidated damages and not as a penalty, an amount equal to the value of the Pledged Interests on the date the Agent demands compliance with this Section 9(b); provided, however, that the payment of such amount shall not release any Grantor from any of its obligations under any of the other Loan Documents.

(c) Notwithstanding the provisions of Section 9(b) hereof, each Grantor recognizes that the Agent may deem it impracticable to effect a public sale of all or any part of the Pledged Shares or any other securities constituting Pledged Interests and that the Agent may , therefore, determine to make one or more private sales of any such securities to a restricted group of purchasers who will be obligated to agree, among other things, to acquire such securities for their own account, for investment and not with a view to the distribution or resale thereof. Each Grantor acknowledges that any such private sale may be at prices and on terms less favorable to the seller than the prices and other terms which might have been obtained at a public sale and, notwithstanding the foregoing, agrees that such private sales shall be deemed to have been made in a commercially reasonable manner and that the Agent shall have no obligation to delay the sale of any such securities for the period of time necessary to permit the issuer of such securities to register such securities for public sale under the Securities Act. Each Grantor further acknowledges and agrees that any offer to sell such securities which has been (i) publicly advertised on a bona fide basis in a newspaper or other publication of general circulation in the financial community of New York, New York (to the extent that such an offer may be so advertised without prior registration under the Securities Act) or (ii) made privately in the manner described above to not less than fifteen bona fide offerees shall be deemed to involve a "public disposition" for the purposes of Section 9-610(c) of the Code (or any successor or similar, applicable statutory provision) as then in effect in the State of New York, notwithstanding that such sale may not constitute a "public offering" under the Securities Act, and that the Agent may, in such event, bid for the purchase of such securities.

(d) Any cash held by or for the benefit of the Agent (or its agent or designee) as Collateral and all Cash Proceeds received by the Agent (or its agent or designee) in respect of any sale of or collection from, or other realization upon, all or any part of the Collateral may, in the discretion of the Agent, be held by the Agent (or its agent or designee) as collateral for, and/or then or at any time thereafter applied (after payment of any amounts payable to the Agent pursuant to Section 10.04 of the Financing Agreement) in whole or in part by the Agent against, all or any part of the Secured Obligations in such order as the Agent shall elect, consistent with the provisions of the Financing Agreement. Any surplus of such cash or Cash Proceeds held by the Agent (or its agent or designee) and remaining after the date on which all of the Secured Obligations have been indefeasibly paid in full in cash after the termination of each Lender's Commitment, and each of the Loan Documents, shall be paid over to whomsoever shall be lawfully entitled to receive the same or as a court of competent jurisdiction shall direct.

(e) In the event that the proceeds of any such sale, collection or realization are insufficient to pay all amounts to which the Agent and the Lenders are legally entitled, the Grantors shall be jointly and severally liable for the deficiency, together with interest thereon at the highest rate specified in any applicable Loan Document for interest on overdue principal thereof or such other rate as shall be fixed by applicable law, together with the costs of collection and the reasonable fees, costs, expenses and other client charges of any attorneys employed by the Agent to collect such deficiency.

(f) Each Grantor hereby acknowledges that if the Agent complies with any applicable requirements of law in connection with a disposition of the Collateral, such compliance will not adversely affect the commercial reasonableness of any sale or other disposition of the Collateral.

(g) The Agent shall not be required to marshal any present or future collateral security (including, but not limited to, this Agreement and the Collateral) for, or other assurances of payment of, the Secured Obligations or any of them or to resort to such collateral security or other assurances of payment in any particular order, and all of the Agent's rights hereunder and in respect of such collateral security and other assurances of payment shall be cumulative and in addition to all other rights, however existing or arising. To the extent that any Grantor lawfully may, such Grantor hereby agrees that it will not invoke any law relating to the marshalling of collateral which might cause delay in or impede the enforcement of the Agent's rights under this Agreement or under any other instrument creating or evidencing any of the Secured Obligations or under which any of the Secured Obligations is outstanding or by which any of the Secured Obligations is secured or payment thereof is otherwise assured, and, to the extent that it lawfully may, each Grantor hereby irrevocably waives the benefits of all such laws.

(h) Upon the occurrence and during the continuance of any Default or Event of Default, the Agent or its designee may at any time and from time to time employ and maintain on the premises of any Grantor a custodian selected by the Agent or its designee who shall have full authority to do all acts necessary to protect the Agent's and the Lenders' interests. Each Grantor hereby agrees to, and to cause its Subsidiaries to, cooperate with any such custodian and to do whatever the Agent or its designee may reasonably request to preserve the Collateral. All costs and expenses incurred by the Agent or its designee by reason of the employment of the custodian shall be the responsibility of the Borrower and shall be payable on demand and shall be subject to and encompassed by Section 10.04 of the Financing Agreement.

(i) Grant of Intellectual Property License. For the purpose of enabling the Agent, during the continuance of an Event of Default, to exercise rights and remedies under Section 9 hereof at such time as the Agent shall be lawfully entitled to exercise such rights and remedies, and for no other purpose, each Grantor hereby grants to the Agent, to the extent assignable, an irrevocable, non-exclusive license to use, assign, license or sublicense any of the Intellectual Property owned or hereafter acquired by such Grantor, wherever the same may be located, and all customer lists, formulae and other Records of any Grantor relating to the distribution of products and services in connection with which any of such Intellectual Property is used. Such license shall include access to all media in which any of the licensed items may be recorded or stored and to all computer programs used for the compilation or printout hereof.

SECTION 10. Notices, Etc. All notices and other communications provided for hereunder shall be given in accordance with the notice provision of the Financing Agreement.

SECTION 11. Security Interest Absolute; Joint and Several Obligations.

(a) All rights of the Secured Parties, all Liens and all obligations of each of the Grantors hereunder shall be absolute and unconditional irrespective of (i) any lack of validity or enforceability of the Financing Agreement or any other Loan Document, (ii) any change in the time, manner or place of payment of, or in any other term in respect of, all or any of the Secured Obligations, or any other amendment or waiver of or consent to any departure from the Financing Agreement or any other Loan Document, (iii) any exchange or release of, or non-perfection of any Lien on any Collateral, or any release or amendment or waiver of or consent to departure from any guaranty, for all or any of the Secured Obligations, or (iv) any

other circumstance that might otherwise constitute a defense available to, or a discharge of, any of the Grantors in respect of the Secured Obligations. All authorizations and agencies contained herein with respect to any of the Collateral are irrevocable and powers coupled with an interest.

(b) Each Grantor hereby waives (i) promptness and diligence, (ii) notice of acceptance and notice of the incurrence of any Obligation by any Borrower, (iii) notice of any actions taken by the Agent, any Lender, any Guarantor or any other Person under any Loan Document or any other agreement, document or instrument relating thereto, (iv) all other notices, demands and protests, and all other formalities of every kind in connection with the enforcement of the Obligations, the omission of or delay in which, but for the provisions of this subsection (b), might constitute grounds for relieving such Grantor of any such Grantor's obligations hereunder and (v) any requirement that the Agent or any Lender protect, secure, perfect or insure any security interest or other lien on any property subject thereto or exhaust any right or take any action against any Grantor or any other Person or any collateral.

(c) All of the obligations of the Grantors hereunder are joint and several. The Agent may, in its sole and absolute discretion, enforce the provisions hereof against any of the Grantors and shall not be required to proceed against all Grantors jointly or seek payment from the Grantors ratably. In addition, the Agent may , in its sole and absolute discretion, select the Collateral of any one or more of the Grantors for sale or application to the Secured Obligations, without regard to the ownership of such Collateral, and shall not be required to make such selection ratably from the Collateral owned by all of the Grantors. The release or discharge of any Grantor by the Agent shall not release or discharge any other Grantor from the obligations of such Person hereunder.

SECTION 12. Agent. In case of the pendency of any proceeding under the Bankruptcy Code or any other judicial proceeding relative to any Grantor, the Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether any Agent shall have made any demand on the Borrower) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Agent and the Lenders (including any claim for the compensation, expenses, disbursements and advances of the Agent and the Lenders and their respective agents and counsel and all other amounts due the Agent and the Lenders hereunder and under the other Loan Documents) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Agent and each Lender to make such payments to the Agent and, in the event that the Agent shall consent to the making of such payments directly to the Agents and the Lenders, to pay to the Agent any amount due for the

reasonable compensation, expenses, disbursements and advances of the Agent and its agents and counsel, and any other amounts due the Agent hereunder and under the other Loan Documents.

SECTION 13. Miscellaneous.

(a) No amendment of any provision of this Agreement (including any Schedule attached hereto) shall be effective unless it is in writing and signed by each Grantor effected thereby and the Agent, and no waiver of any provision of this Agreement, and no consent to any departure by any Grantor therefrom, shall be effective unless it is in writing and signed by the Agent, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

(b) No failure on the part of the Secured Parties to exercise, and no delay in exercising, any right hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right. The rights and remedies of the Secured Parties provided herein and in the other Loan Documents are cumulative and are in addition to, and not exclusive of, any rights or remedies provided by law. The rights of the Secured Parties under any Loan Document against any party thereto are not conditional or contingent on any attempt by such Person to exercise any of its rights under any other Loan Document against such party or against any other Person, including but not limited to, any Grantor.

(c) This Agreement shall create a continuing security interest in the Collateral and shall (i) remain in full force and effect, subject to paragraph (e) below, until the date on which all of the Secured Obligations have been indefeasibly paid in full in cash after the termination of each Lender's Commitment, and each of the Loan Documents and (ii) be binding on each Grantor all other Persons who become bound as debtor to this Agreement in accordance with Section 9-203(d) of the Code, and shall inure, together with all rights and remedies of the Secured Parties hereunder, to the benefit of the Secured Parties and their respective successors, transferees and assigns. Without limiting the generality of clause (ii) of the immediately preceding sentence, the Secured Parties may assign or otherwise transfer their respective rights and obligations under this Agreement and any other Loan Document to any other Person pursuant to the terms of the Financing Agreement, and such other Person shall thereupon become vested with all of the benefits in respect thereof granted to the Secured herein or otherwise. Upon any such assignment or transfer, all references in this Agreement to any Secured Party shall mean the assignee of any such Secured Party. None of the rights or obligations of any Grantor hereunder may be assigned or otherwise transferred without the prior written consent of the Agent , and any such assignment or transfer shall be null and void.

(d) Upon the date on which all of the Secured Obligations have been indefeasibly paid in full in cash after the termination of each Lender's Commitment and each of the Loan Documents, (i) subject to paragraph (e) below, this Agreement and the security interests and licenses created hereby shall terminate and all rights to the Collateral shall revert to the Grantors and (ii) the Agent will, upon the Grantors' request and at the Grantors' expense, without any representation, warranty or recourse whatsoever, (A) return to the Grantors (or whomsoever shall be lawfully entitled to receive the same or as a court of competent jurisdiction shall direct)

such of the Collateral as shall not have been sold or otherwise disposed of or applied pursuant to the terms hereof and (B) execute and deliver to the Grantors such documents as the Grantors shall reasonably request to evidence such termination.

(e) This Agreement shall remain in full force and effect and continue to be effective should any petition be filed by or against any Grantor for liquidation or reorganization, should any Grantor become insolvent or make an assignment for the benefit of any creditor or creditors or should a receiver or trustee be appointed for all or any significant part of any Grantor's assets, and shall continue to be effective or be reinstated, as the case may be, if at any time payment or performance of the Secured Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee of the Secured Obligations, whether as a "voidable preference," "fraudulent conveyance," or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Secured Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

(f) Upon the execution and delivery, or authentication, by any Person of a security agreement supplement in substantially the form of Exhibit C hereto (each a "Security Agreement Supplement"), (i) such Person shall be referred to as an "Additional Grantor" and shall be and become a Grantor, and each reference in this Agreement to "Grantor" shall also mean and be a reference to such Additional Grantor, and each reference in this Agreement and the other Loan Documents to "Collateral" shall also mean and be a reference to the Collateral of such Additional Grantor, and (ii) the supplemental Schedules I-IX attached to each Security Agreement Supplement shall be incorporated into and become a part of and supplement Schedules I-IX, respectively, hereto, and the Agent may attach such Schedules as supplements to such Schedules, and each reference to such Schedules shall mean and be a reference to such Schedules, as supplemented pursuant hereto.

(g) **THIS AGREEMENT SHALL BE GOVERNED BY, CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, EXCEPT AS REQUIRED BY MANDATORY PROVISIONS OF LAW AND EXCEPT TO THE EXTENT THAT THE VALIDITY AND PERFECTION OR THE PERFECTION AND THE EFFECT OF PERFECTION OR NON-PERFECTION OF THE SECURITY INTEREST CREATED HEREBY, OR REMEDIES HEREUNDER, IN RESPECT OF ANY PARTICULAR COLLATERAL ARE GOVERNED BY THE LAW OF A JURISDICTION OTHER THAN THE STATE OF NEW YORK.**

(h) In addition to and without limitation of any of the foregoing, this Agreement shall be deemed to be a Loan Document and shall otherwise be subject to all of terms and conditions contained in Sections 10.10 and 10.11 of the Financing Agreement, *mutatis mutandis*.

(i) Each Grantor irrevocably and unconditionally waives any right it may have to claim or recover in any legal action, suit or proceeding with respect to this Agreement any special, exemplary, punitive or consequential damages.

(j) Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining portions hereof or thereof or affecting the validity or enforceability of such provision in any other jurisdiction.

(k) Section headings herein are included for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

(l) This Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which shall be deemed an original, but all of such counterparts taken together shall constitute one and the same agreement. Delivery of an executed counterpart of this Agreement by facsimile or electronic mail shall be equally effective as delivery of an original executed counterpart.

(m) For purposes of this Agreement, all references to Schedule I-IX attached hereto shall be deemed to refer to each such Schedule as updated from time to time in accordance with the terms of this Agreement.

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IN WITNESS WHEREOF, each Grantor has caused this Agreement to be executed and delivered by its officer thereunto duly authorized, as of the date first above written.

GRANTORS:

[REORGANIZED WMI]

By: _____
Name:
Title:

SCHEDULE I

LEGAL NAMES; ORGANIZATIONAL IDENTIFICATION NUMBERS; JURISDICTIONS OF ORGANIZATION; FEDERAL EMPLOYER IDENTIFICATION NUMBER

SCHEDULE II

INTELLECTUAL PROPERTY AND LICENSES; TRADE NAMES

A. COPYRIGHTS

1. Registered Copyrights

2. Copyright Applications

3. Copyright Licenses

B. PATENTS

1. Registered Patents

2. Patents Applications

3. Patents Licenses

C. TRADEMARKS

1. Registered Trademarks

2. Trademark Applications

3. Trademark Licenses

D. OTHER INTELLECTUAL PROPERTY AND LICENSES

E. TRADENAMES

F. NAME OF, AND EACH TRADENAME USED BY, EACH PERSON FROM WHICH A GRANTOR HAS ACQUIRED ANY SUBSTANTIAL PART OF THE COLLATERAL WITHIN THE PRECEDING FIVE YEARS

SCHEDULE III

LOCATIONS OF GRANTORS

LOCATION	Description of Location (state if Location (i) contains Equipment, Fixtures, Inventory or other Goods (ii) is chief place of business and chief executive office, or (iii) contains Records concerning Accounts and originals of Chattel Paper)

SCHEDULE IV

DEPOSIT ACCOUNTS, SECURITIES ACCOUNTS AND COMMODITIES ACCOUNTS

Name and Address of Institution Maintaining Account	Account Number	Type of Account

SCHEDULE V

UCC FINANCING STATEMENTS

UCC Financing Statements have been filed in the jurisdictions below against the Grantors:

Name of Grantor	Secretary of State

SCHEDULE VI

COMMERCIAL TORT CLAIMS

SCHEDULE VII

PLEDGED DEBT

Grantor	Name of Maker	Description	Principal Amount Outstanding as of

SCHEDULE VIII

PLEDGED SHARES

Grantor	Name of Pledged Issuer	Number of Shares	Percentage of Outstanding Shares	Class	Certificate Number

SCHEDULE IX

[INSURANCE ASSETS]

EXHIBIT A

PLEDGE AMENDMENT

This Pledge Amendment, dated _____ __, ___, is delivered pursuant to Section 4 of the Pledge and Security Agreement referred to below. The undersigned hereby agrees that this Pledge Amendment may be attached to the Pledge and Security Agreement, dated _____ __, 2012, as it may heretofore have been or hereafter may be amended, restated, supplemented, modified or otherwise changed from time to time (the "Security Agreement") and that the Promissory Notes or shares listed on this Pledge Amendment shall be hereby pledged and assigned to the Agent and become part of the Pledged Interests referred to in such Pledge Agreement and shall secure all of the Secured Obligations referred to in such Security Agreement.

Pledged Debt			
Grantor	Name of Maker	Description	Principal Amount Outstanding as of

Pledged Shares					
Grantor	Name of Pledged Issuer	Number of Shares	Percentage of Outstanding Shares	Class	Certificate Number

[GRANTOR]

By: _____

Name:

Title:

[NAME OF AGENT],
as the Agent:

By _____
Name:
Title:

EXHIBIT B

ASSIGNMENT FOR SECURITY - - [TRADEMARKS] [PATENTS] [COPYRIGHTS]

WHEREAS, _____ (the "Assignor") [has adopted, used and is using, and holds all right, title and interest in and to, the trademarks and service marks listed on the attached Schedule A, which trademarks and service marks are registered or applied for in the United States Patent and Trademark Office (the "Trademarks")] [holds all right, title and interest in the letter patents, design patents and utility patents listed on the attached Schedule A, which patents are issued or applied for in the United States Patent and Trademark Office (the "Patents")] [holds all right, title and interest in the copyrights listed on the attached Schedule A, which copyrights are registered in the United States Copyright Office (the "Copyrights")];

WHEREAS, the Assignor has entered into a Pledge and Security Agreement, dated _____ __, 2012 (as amended, restated, supplemented, modified or otherwise changed from time to time, the "Security Agreement"), in favor of _____, as the Agent for itself and certain lenders (in such capacity, together with its successors and assigns, if any, the "Assignee"); and

WHEREAS, pursuant to the Security Agreement, the Assignor has assigned to the Assignee and granted to the Assignee for the benefit of the Secured Parties (as defined in the Security Agreement) a continuing security interest in all right, title and interest of the Assignor in, to and under the [Trademarks, together with, among other things, the good-will of the business symbolized by the Trademarks] [Patents] [Copyrights] and the applications and registrations thereof, and all proceeds thereof, including, without limitation, any and all causes of action which may exist by reason of infringement thereof and any and all damages arising from past, present and future violations thereof (the "Collateral"), to secure the payment, performance and observance of the Secured Obligations (as defined in the Security Agreement);

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Assignor does hereby pledge, convey, sell, assign, transfer and set over unto the Assignee and grants to the Assignee for the benefit of the Assignee and the Lenders a continuing security interest in the Collateral to secure the prompt payment, performance and observance of the Secured Obligations.

The Assignor does hereby further acknowledge and affirm that the rights and remedies of the Assignee with respect to the Collateral are more fully set forth in the Security Agreement, the terms and provisions of which are hereby incorporated herein by reference as if fully set forth herein.

IN WITNESS WHEREOF, the Assignor has caused this Assignment to be duly executed by its officer thereunto duly authorized as of _____ __, 201_.

[GRANTOR]

By:_____
Name:
Title:

STATE OF _____
ss.:
COUNTY OF _____

On this ____ day of _____, 201_, before me personally came _____, to me known to be the person who executed the foregoing instrument, and who, being duly sworn by me, did depose and say that s/he is the _____ of _____, a _____, and that s/he executed the foregoing instrument in the firm name of _____, and that s/he had authority to sign the same, and s/he acknowledged to me that he executed the same as the act and deed of said firm for the uses and purposes therein mentioned.

_____

SCHEDULE A TO ASSIGNMENT FOR SECURITY

[Trademarks and Trademark Applications]
[Patent and Patent Applications]
[Copyright and Copyright Applications]
Owned by _____

EXHIBIT C

FORM OF SECURITY AGREEMENT SUPPLEMENT

[Date of Security Agreement Supplement]

[_____], as Agent

_____

_____

Ladies and Gentlemen:

Reference hereby is made to (i) the Financing Agreement, dated as of _____ __, 2012 (such agreement, as amended, restated, supplemented, modified or otherwise changed from time to time, including any replacement agreement therefor, being hereinafter referred to as the "Financing Agreement") by and among [Reorganized WMI], a _____ _____ (the "Borrower", sometimes referred to herein as the "Borrower"), each subsidiary of the Borrower listed as a "Guarantor" on the signature pages thereto (together with each other Person (as defined in the Financing Agreement) that guarantees all or any portion of the Obligations (as defined in the Financing Agreement) from time to time, each a "Guarantor" and collectively, the "Guarantors", and together with the Borrowers, each a "Grantor" and collectively, the "Grantors"), the lenders from time to time party thereto (each a "Lender" and collectively, the "Lenders"), and _____, a _____ _____, in its capacity as Agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, if any, the "Agent") and (ii) the Pledge and Security Agreement, dated as of _____ __, 2012 (as amended, restated, supplemented or otherwise modified from time to time, the "Security Agreement"), made by the Grantors from time to time party thereto in favor of the Agent. Capitalized terms defined in the Financing Agreement or the Security Agreement and not otherwise defined herein are used herein as defined in the Financing Agreement or the Security Agreement.

SECTION 1. Grant of Security. The undersigned hereby grants to the Agent, for the ratable benefit of the Secured Parties, a security interest in, all of its right, title and interest in and to all of the Collateral (as defined in the Security Agreement) of the undersigned, whether now owned or hereafter acquired by the undersigned, wherever located and whether now or hereafter existing or arising, including, without limitation, the property and assets of the undersigned set forth on the attached supplemental schedules to the Schedules to the Security Agreement.

SECTION 2. Security for Obligations. The grant of a security interest in the Collateral by the undersigned under this Security Agreement Supplement and the Security Agreement secures the payment of all Secured Obligations of the undersigned now or hereafter existing under or in respect of the Loan Documents, whether direct or indirect, absolute or contingent, and whether for principal, reimbursement obligations, interest, premiums, penalties, fees, indemnifications, contract causes of action, costs, expenses or otherwise. Without limiting the generality of the foregoing, each of this Security Agreement Supplement and the Security

Agreement secures the payment of all amounts that constitute part of the Secured Obligations and that would be owed by the undersigned to the Agent or any Secured Party under the Loan Documents but for the fact that such Secured Obligations are unenforceable or not allowable due to the existence of a bankruptcy, reorganization or similar proceeding involving a Grantor.

SECTION 3. Supplements to Security Agreement Schedules. The undersigned has attached hereto supplemental Schedules I through VIII to Schedules I through VIII, respectively, to the Security Agreement, and the undersigned hereby certifies, as of the date first above written, that such supplemental Schedules have been prepared by the undersigned in substantially the form of the equivalent Schedules to the Security Agreement, and such supplemental Schedules include all of the information required to be scheduled to the Security Agreement and do not omit to state any information material thereto.

SECTION 4. Representations and Warranties. The undersigned hereby makes each representation and warranty set forth in Section 5 of the Security Agreement (as supplemented by the attached supplemental Schedules) to the same extent as each other Grantor.

SECTION 5. Obligations Under the Security Agreement. The undersigned hereby agrees, as of the date first above written, to be bound as a Grantor by all of the terms and provisions of the Security Agreement to the same extent as each of the other Grantors. The undersigned further agrees, as of the date first above written, that each reference in the Security Agreement to an "Additional Grantor" or a "Grantor" shall also mean and be a reference to the undersigned.

SECTION 6. Governing Law. This Security Agreement Supplement shall be governed by, and construed in accordance with, the laws of the State of New York.

SECTION 7. Loan Document. In addition to and without limitation of any of the foregoing, this Security Agreement Supplement shall be deemed to be a Loan Document and shall otherwise be subject to all of terms and conditions contained in Sections 10.10 and 10.11 of the Financing Agreement, *mutatis mutandis*.

Very truly yours,

[NAME OF ADDITIONAL GRANTOR]

By: _____
Name:
Title:

Acknowledged and Agreed:

[_____
As Agent]

By
Name:
Title:

Exhibit J

Form of Intercreditor Agreement

INTERCREDITOR AGREEMENT

INTERCREDITOR AGREEMENT (this "Agreement") dated as of [ ], 2012, by and among Wilmington Trust, National Association, as collateral agent under the Runoff Security Agreement (as defined below) (in such capacity, the "Collateral Agent"), Wilmington Trust, National Association, as trustee under the Initial First Lien Indenture (as defined below) (in such capacity, the "First Lien Trustee"), Law Debenture Trust Company of New York, as trustee under the Initial Second Lien Indenture (as defined below) (in such capacity, the "Second Lien Trustee"), and U.S. Bank National Association, as administrative agent under the Initial Credit Agreement (as defined below) (in such capacity, the "Credit Agreement Agent").

A. Washington Mutual, Inc., a Washington corporation ("WMI" or "Issuer"), as issuer, and the First Lien Trustee are party to the Senior First Lien Notes Indenture, dated as of the date hereof (as amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms of this Agreement, the "Initial First Lien Indenture") pursuant to which WMI will issue certain notes to the First Lien Noteholders (as defined below).

B. WMI, as issuer, and the Second Lien Trustee are party to the Senior Second Lien Notes Indenture, dated as of the date hereof (as amended, amended or restated, supplemented or otherwise modified from time to time in accordance with the terms of this Agreement, the "Initial Second Lien Indenture") pursuant to which WMI will issue certain notes to the Second Lien Noteholders (as defined below);

C. WMI, as borrower, each subsidiary of WMI party thereto, the lenders party thereto (together with their successors and assigns, the "Credit Agreement Lenders"), and the Credit Agreement Agent are party to the Financing Agreement, dated as of the date hereof (as amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms of this Agreement, the "Initial Credit Agreement") pursuant to which the Credit Agreement Lenders have agreed to make loans to the Issuer in its capacity as borrower thereunder on the terms and conditions contained therein.

D. The Issuer and the other Obligors (as defined herein) have granted to the Collateral Agent separate Liens (as defined below) on the Collateral (as defined below), for the benefit of the First Lien Creditors (as defined below), the Second Lien Creditors (as defined below) and the Third Lien Creditors (as defined below) and have also provided to the First Lien Creditors and the Second Lien Creditors certain rights of recourse to the Issuer and certain of the Obligors, as more particularly described in the First Lien Documents (as defined below) and the Second Lien Documents (as defined below).

E. The First Lien Trustee, on behalf of the First Lien Creditors, the Second Lien Trustee, on behalf of the Second Lien Creditors, the Credit Agreement Agent, on behalf of the Third Lien Creditors, and the Collateral Agent wish to set forth their agreement as to certain of their respective rights and remedies, and the priority, protection and enforcement thereof, with respect to the Collateral and the Issuer and other Obligors.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto agree as follows:

Section 1. **Definitions.**

1.1 General Terms. Capitalized terms used but not defined herein shall have the respective meanings set forth in the Initial First Lien Indenture as in effect on the date of this Agreement. As used in this Agreement, the following terms shall have the respective meanings indicated below, such meanings to be applicable equally to both the singular and the plural forms of the terms defined:

"**Agreement**" shall have the meaning set forth in the preamble hereof.

"**Bankruptcy Code**" means the provisions of Title 11 of the United States Code, 11 U.S.C. §§101 et seq. or Chapter 431, Article 15 of the Hawaii Code.

"**Bankruptcy Law**" means the Bankruptcy Code and any other federal, state or foreign bankruptcy, insolvency, reorganization or other law affecting creditors' rights.

"**Business Day**" means any day of the year that is not a Saturday, a Sunday or a day on which banks are required or authorized to close in the State of New York, the place of payment or the State of Washington.

"**Collateral**" means all of the Obligors' rights and interests in the following, whether now owned or hereafter acquired: (i) the Collateral Account and all funds and assets held therein or credited thereto, (ii) all Run-Off Proceeds held by the Trusts, (iii) all Run-Off Proceeds held by WMMRC (to the extent permitted by the applicable Governmental Authority), (iv) all Run-Off Proceeds held by the Protected Cell (to the extent permitted by the applicable Governmental Authority), (v) all Run-Off Proceeds received by the Issuer, (vi) all rights of the Issuer to receive dividends or distributions in respect of the Run-Off Proceeds, (vii) the Capital Stock of WMMRC owned or held by the Issuer (to the extent permitted by the applicable Governmental Authority), (viii) the Capital Stock in the Protected Cell owned or held by the Issuer (to the extent permitted by the applicable Governmental Authority), (ix) the excess assets of the Protected Cell (to the extent permitted by the applicable Governmental Authority) and (x) all proceeds of the foregoing. For the avoidance of doubt, the term "Collateral" does not include any property or assets of the Issuer or other Obligors constituting Credit Agreement Separate Collateral.

"**Collateral Agent**" means Wilmington Trust, National Association, in its capacity as collateral agent under the Runoff Security Agreement, and its permitted successors and assigns in such capacity.

"**Collateral Enforcement Action**" means (a) any exercise or enforcement of remedial rights with respect to Collateral (whether through a judicial proceeding or otherwise, including any exercise of any right or remedy with respect to Collateral under any of the applicable Documents or law), including any action to foreclose on the Lien of such Person in any Collateral, any exercise of any right or remedy with respect to Collateral, taking of possession or control of or selling (whether publicly or privately) or otherwise realizing upon any

Collateral, any action taken to receive a transfer of any Collateral in satisfaction of any Obligations secured thereby or to exercise any other rights or remedies with respect to any Collateral, including any exercise of any right of setoff or recoupment with respect to Collateral, and any Disposition after the occurrence of an Event of Default of any Collateral by an Obligor with the consent of, or at the direction of, a Secured Creditor, any notification to account debtors or notification to depositary banks under deposit account control agreements, and/or (b) the exercise of voting rights in respect of equity interests comprising Collateral or the commencement by any Secured Creditor of any legal proceedings or other actions against or with respect to any Obligor or all or any portion of the Collateral to facilitate any of the actions described in clause (a) above, including the commencement of any Insolvency Proceeding; provided that "Collateral Enforcement Action" shall not include any Specific Performance Action or any Recourse Action; and provided, further, that, for the avoidance of doubt, "Collateral Enforcement Action" shall not include any action taken by any Third Lien Creditor (whether pursuant to the Third Lien Documents, applicable law, or otherwise) (i) to collect the Third Lien Obligations or enforce any right or remedy with respect to the Third Lien Obligations, except to the extent that such action is against the Collateral or (ii) in respect of the Credit Agreement Separate Collateral.

"**Credit Agreement Agent**" means U.S. Bank National Association, in its capacity as administrative agent for the Third Lien Creditors under the Third Lien Documents, and its successors and assigns in such capacity (including one or more other agents or similar contractual representatives for one or more lenders that at any time succeed to or Refinance any or all of the Third Lien Obligations at any time and from time to time not in violation of this Agreement).

"**Credit Agreement**" means (a) the Initial Credit Agreement and (b) each loan or credit agreement evidencing any replacement, substitution, renewal, or Refinancing in whole or in part of the Obligations under the Initial Credit Agreement, in each case as the same may from time to time be amended, amended and restated, supplemented, modified, replaced, substituted, or renewed in accordance with the terms of this Agreement.

"Credit Agreement Separate Collateral" means all assets and properties of the Issuer and the other Obligors in which the Credit Agreement Agent for the benefit of the Third Lien Creditors may have been granted a Lien pursuant to the Third Lien Documents to secure the Third Lien Obligations, other than the property and assets expressly described in the first sentence of the definition of "Collateral".

"**Credit Agreement Lenders**" shall have the meaning set forth in the recitals hereto.

"**Disposition**" means any sale, lease, exchange, transfer or other disposition, and "**Dispose**" and "**Disposed of**" shall have correlative meanings.

"**Documents**" means the First Lien Documents, the Second Lien Documents and the Third Lien Documents, or any of them, as applicable.

"**Event of Default**" means each "Event of Default" or similar term, as such term is defined in any First Lien Document, any Second Lien Document or any Third Lien Document, as applicable.

"First Lien Avoidance" shall have the meaning set forth in Section 5.4(a).

"**First Lien Creditors**" means the First Lien Trustee, the First Lien Noteholders and the other Persons from time to time holding First Lien Obligations.

"**First Lien Documents**" means the First Lien Indenture, the First Lien Notes, the Runoff Security Agreement and all other Security Documents (as such term is defined in the First Lien Indenture) and all other agreements, documents and instruments at any time executed and/or delivered by any Obligor or any other Person with, to or in favor of the First Lien Trustee or any other First Lien Creditor in connection therewith or related thereto, including such documents evidencing successive Refinancings of the First Lien Obligations in each case, as amended, amended and restated, supplemented, modified, replaced, substituted or renewed from time to time in accordance with the terms of this Agreement.

"**First Lien Indenture**" means (a) the Initial First Lien Indenture and (b) each indenture or loan agreement evidencing any replacement, substitution, renewal, or Refinancing in whole or in part of the Obligations under the First Lien Indenture, in each case as amended, amended and restated, supplemented, modified, replaced, substituted or renewed from time to time in accordance with the terms of this Agreement.

"**First Lien Indenture Waterfall**" means the order of payments set forth in Section 4.02(b) of the First Lien Indenture.

"**First Lien Noteholders**" means any holder of the First Lien Notes together with their successors and assigns.

"**First Lien Notes**" means the notes issued or loans borrowed and outstanding under the First Lien Documents and any notes or loans that may be subsequently issued or borrowed in exchange therefor pursuant to the First Lien Documents, including in connection with successive Refinancings of the First Lien Obligations.

"**First Lien Obligations**" means all obligations, liabilities and indebtedness of every kind, nature and description owing by one or more of the Obligors to one or more of the First Lien Creditors evidenced by or arising under one or more of the First Lien Documents (including the First Lien Notes), whether direct or indirect, absolute or contingent, joint or several, due or not due, primary or secondary, liquidated or unliquidated, including principal, interest, charges, fees, costs, indemnities and reasonable expenses, however evidenced, and whether as principal, surety, endorser, guarantor or otherwise, whether now existing or hereafter arising, whether arising before, during or after the initial or any renewal term of the First Lien Indenture and whether arising before, during or after the commencement of any Insolvency Proceeding with respect to one or more of the Obligors (and including the payment of any principal, interest, fees, cost, expenses and other amounts (including default rate interest) which would accrue and become due but for the commencement of such Insolvency Proceeding

whether or not such amounts are allowed or allowable in whole or in part in any such Insolvency Proceeding).

"**First Lien Termination Date**" means the date on which all First Lien Obligations have been Paid in Full.

"**First Lien Trustee**" means Wilmington Trust, National Association, in its capacity as trustee for the First Lien Creditors under the First Lien Documents, and its permitted successors and assigns in such capacity (including one or more other trustees or similar contractual representatives for one or more lenders or note holders that at any time succeed to or Refinance any or all of the First Lien Obligations at any time and from time to time not in violation of this Agreement).

"**Initial Credit Agreement**" shall have the meaning set forth in the recitals hereto.

"**Initial First Lien Indenture**" shall have the meaning set forth in the recitals hereto.

"**Initial Second Lien Indenture**" shall have the meaning set forth in the recitals hereto.

"**Insolvency Proceeding**" means, as to any Obligor, any of the following, whether voluntary or involuntary: (a) any case or proceeding with respect to such Person under the Bankruptcy Code or any other Bankruptcy Law or any other or similar proceedings seeking any stay, reorganization, arrangement, composition or readjustment of the obligations and indebtedness of such Obligor, (b) any proceeding seeking the appointment of any trustee, receiver, liquidator, custodian or other insolvency official with similar powers with respect to such Obligor or any of its assets, (c) any proceeding for liquidation, dissolution or other winding up of the business of such Obligor or (d) any assignment for the benefit of creditors or any marshalling of assets of such Obligor.

"**Issuer**" shall have the meaning set forth in the recitals hereof.

"**Lien**" means any mortgage, deed of trust, pledge, hypothecation, assignment, charge, deposit arrangement, encumbrance, easement, lien (statutory or otherwise), security interest or other security arrangement and any other preference, priority or preferential arrangement of any kind or nature whatsoever, including any conditional sale contract or other title retention arrangement, the interest of a lessor under a capital lease and any synthetic or other financing lease having substantially the same economic effect as any of the foregoing.

"**Maximum First Lien Amount**" means as of any date of determination, an amount equal to (a) the aggregate principal amount of initial First Lien Notes issued under the Initial First Lien Indenture, but in any event not greater than the sum of (i) $110,000,000 plus (ii) the amount of any reasonable and customary premiums paid and fees and expenses incurred in connection with a Refinancing of the First Lien Notes, **minus** (b) the sum of all principal payments of such initial First Lien Notes after the date hereof other than in connection with a Refinancing thereof, **plus** (c) interest, premiums, fees, costs, expenses, indemnities and other

amounts payable pursuant to the terms of the First Lien Documents, whether or not the same are added to the principal amount of the First Lien Obligations (including interest payable by issuance of additional Notes and capitalized interest) and including any interest as would accrue and become due but for the commencement of an Insolvency Proceeding, whether or not such amounts are allowed or allowable in whole or in part in any such Insolvency Proceeding.

"**New First Lien Documents**" shall have the meaning set forth in Section 4.4(a).

"**New First Lien Obligations**" shall have the meaning set forth in Section 4.4(a).

"**New First Lien Trustee**" shall have the meaning set forth in Section 4.4(a).

"**New Second Lien Documents**" shall have the meaning set forth in Section 4.4(b).

"**New Second Lien Obligations**" shall have the meaning set forth in Section 4.4(b).

"**New Second Lien Trustee**" shall have the meaning set forth in Section 4.4(b).

"**New Third Lien Agent**" shall have the meaning set forth in Section 4.4(c).

"**New Third Lien Documents**" shall have the meaning set forth in Section 4.4(c).

"**New Third Lien Obligations**" shall have the meaning set forth in Section 4.4(c).

"**Notes**" means the First Lien Notes and the Second Lien Notes

"**Obligations**" means the First Lien Obligations, the Second Lien Obligations and the Third Lien Obligations, or any of them, as applicable.

"**Obligor**" means the Issuer and each other Person liable on or in respect of the Obligations or that has granted a Lien on any property or assets as Collateral, together with such Person's successors and assigns, including a receiver, trustee or debtor-in-possession on behalf of such Person.

"**Paid in Full**" or "**Payment in Full**" means, with respect to any Obligations, that: (a) all of such Obligations (other than contingent indemnification obligations for which no claim or demand for payment, whether oral or written, has been made at such time) have been indefeasibly paid in full in cash or otherwise satisfied, as such satisfaction is determined by the applicable Representative in accordance with the applicable Documents, and (b) no Person has any further right to obtain any loans, advances or other extensions of credit under the documents relating to such Obligations.

"**Person**" means an individual, partnership, corporation (including a business trust and a public benefit corporation), joint stock company, estate, association, firm, enterprise, trust,

limited liability company, unincorporated association, joint venture, governmental authority or any other entity or regulatory body.

"**Protected Cell**" means a protected cell established by WMI in connection with the Insurance Book Closing upon the receipt of approval of the applicable Governmental Authority and maintained pursuant to § 431:19-303 of Title 24 of the Hawaii Insurance Code, in conformance with all applicable Requirements of Law.

"**Recourse Action**" means the commencement by any First Lien Creditor or Second Lien Creditor of any legal proceedings, or the taking of any other action against or with respect to the Issuer or the Owner or any of such Person's property or assets, to enforce any right of recourse against the Issuer or the Owner or their property or assets pursuant to Section 7.16 of the First Lien Indenture or Section 7.16 of the Second Lien Indenture, and the corresponding provisions of the First Lien Notes or Second Lien Notes, as applicable, or any successor provision of any other First Lien Document or Second Lien Document, but shall not include any of the actions listed in clauses (a) and (b) of the definition of Collateral Enforcement Action.

"**Recourse Proceeds**" means any payment, distribution or collection of cash, property, securities, or otherwise received or realized as a result of or in connection with any Recourse Action.

"**Refinance**", "**Refinancings**" and "**Refinanced**" means, in respect of any Obligations, to issue or incur other indebtedness in exchange for or to refinance, refund, redeem, renew, replace, defease, or discharge such Obligations, in whole or in part.

"**Release Documentation"** shall have the meaning set forth in Section 2.9.

"**Release Event**" means the Disposition of any Collateral as a result of any Collateral Enforcement Action by the First Lien Creditors (or, after the First Lien Termination Date, by the Second Lien Creditors), including a Disposition conducted by any Obligor with the consent of the First Lien Trustee (or, after the First Lien Termination Date, by the Second Lien Trustee) or, after the occurrence and during the continuance of an Insolvency Proceeding by or against any Obligor, the entry of an order of any bankruptcy court pursuant to Section 363 of the Bankruptcy Code authorizing the sale of all or any portion of the Collateral.

"**Representative**" means the First Lien Trustee, the Second Lien Trustee or the Credit Agreement Agent, as applicable.

"**Runoff Proceeds Distributions**" shall have the meaning ascribed to it in the First Lien Indenture or the Second Lien Indenture.

"**Runoff Security Agreement**" means the Pledge and Security Agreement, dated as of [ ], by and among the Issuer, the First Lien Trustee, the Second Lien Trustee, the Credit Agreement Agent, and the Collateral Agent, and any other security agreement providing for Liens on the Collateral entered into in connection with any Refinancing of the First Lien Obligations, the Second Lien Obligations or the Third Lien Obligations, in each case as the same may be amended, restated, amended and restated, renewed, replaced, supplemented or otherwise modified from time to time.

"**Second Lien Avoidance**" shall have the meaning set forth in Section 5.4(b).

"**Second Lien Creditors**" means the Second Lien Trustee, the Second Lien Noteholders and the other Persons from time to time holding Second Lien Obligations.

"**Second Lien Default**" means any "Event of Default" under the Second Lien Documents.

"**Second Lien Default Notice**" means with respect to any Second Lien Default, a written notice from the Second Lien Trustee to the First Lien Trustee and the Collateral Agent, with a copy to the Obligors, indicating that such Second Lien Default has occurred and describing such Second Lien Default in reasonable detail.

"**Second Lien Disposition Notice**" shall have the meaning set forth in Section 2.10(a).

"**Second Lien Documents**" means the Second Lien Indenture, the Second Lien Notes, the Runoff Security Agreement and all other Security Documents (as such term is defined in the Second Lien Indenture) and all other agreements, documents and instruments at any time executed and/or delivered by any Obligor or any other Person with, to or in favor of the Second Lien Trustee or any Second Lien Creditor in connection therewith or related thereto, including such documents evidencing successive Refinancings of the Second Lien Obligations in each case, as amended, amended and restated, supplemented, modified, replaced, substituted or renewed from time to time in accordance with the terms of this Agreement.

"**Second Lien Indenture**" means (a) the Initial Second Lien Indenture and (b) each indenture or loan agreement evidencing any replacement, substitution, renewal, or Refinancing of the Obligations under the Second Lien Indenture, in each case as amended, amended and restated, supplemented, modified, replaced, substituted or renewed from time to time in accordance with the terms of this Agreement.

"**Second Lien Indenture Waterfall**" means the order of payments set forth in Section 4.02(b) of the Second Lien Indenture.

"**Second Lien Noteholders**" means any holder of the Second Lien Notes together with their successors and assigns.

"**Second Lien Notes"** means the notes issued or loans borrowed and outstanding under the Second Lien Documents and any notes or loans that may be subsequently issued or borrowed in exchange therefor pursuant to the Second Lien Documents, including in connection with successive Refinancings of the Second Lien Obligations.

"**Second Lien Obligations**" means all obligations, liabilities and indebtedness of every kind, nature and description owing by one or more Obligors to one or more of the Second Lien Creditors evidenced by or arising under one or more of the Second Lien Documents (including the Second Lien Notes), whether direct or indirect, absolute or contingent, joint or several, due or not due, primary or secondary, liquidated or unliquidated, including principal, interest, charges, fees, costs, indemnities and reasonable expenses, however evidenced, whether

as principal, surety, endorser, guarantor or otherwise, whether now existing or hereafter arising, whether arising before, during or after the initial or any renewal term of the Second Lien Indenture and whether arising before, during or after the commencement of any Insolvency Proceeding with respect to any Obligor (and including the payment of any principal, interest, fees, cost, expenses and other amounts (including default rate interest) which would accrue and become due but for the commencement of such Insolvency Proceeding, whether or not such amounts are allowed or allowable in whole or in part in any such Insolvency Proceeding).

"**Second Lien Standstill Period**" means the period commencing on the date of a Second Lien Default and ending upon the date which is the earliest of (a) commencement of an Insolvency Proceeding, (b) the expiration of 90 days after the First Lien Trustee has received a Second Lien Default Notice with respect to such Second Lien Default that has occurred and is continuing under the Second Lien Indenture, and (c) the First Lien Termination Date.

"**Second Lien Termination Date**" means the date on which all Second Lien Obligations have been Paid in Full.

"**Second Lien Trustee**" means Law Debenture Trust Company of New York, in its capacity as trustee for the Second Lien Creditors under the Second Lien Documents, and its permitted successors and assigns in such capacity (including one or more other trustees or similar contractual representatives for one or more lenders or note holders that at any time succeed to or Refinance any or all of the Second Lien Obligations at any time and from time to time not in violation of this Agreement).

"**Secured Creditors**" means the First Lien Creditors, the Second Lien Creditors and the Third Lien Creditors, or any of them, as applicable.

"**Senior Adequate Protection Liens**" shall have the meaning set forth in Section 5.2(a).

"**Specific Performance Action**" means the filing of any action in any court of competent jurisdiction to specifically enforce any of the provisions of the First Lien Documents or the Second Lien Documents as contemplated by Section 7.04 of the First Lien Indenture or Section 7.04 of the Second Lien Indenture, as applicable.

"**Third Lien Creditors**" means the Credit Agreement Agent, the Credit Agreement Lenders and the other Persons from time to time holding Third Lien Obligations.

"**Third Lien Default**" means any "Event of Default" under the Third Lien Documents.

"**Third Lien Default Notice**" means with respect to any Third Lien Default, a written notice from the Credit Agreement Agent to (i) prior to the First Lien Termination Date, the First Lien Trustee, the Second Lien Trustee and the Collateral Agent and (ii) thereafter but prior to the Second Lien Termination Date, the Second Lien Trustee and the Collateral Agent, with a copy to the Obligors, indicating that such Third Lien Default has occurred and describing such Third Lien Default in reasonable detail.

"**Third Lien Documents**" the Credit Agreement, all Loan Documents (as such term is defined in the Third Lien Credit Agreement) and all other agreements, documents and instruments at any time executed and/or delivered by any Obligor or any other Person with, to or in favor of the Third Lien Trustee or any Third Lien Creditor in connection therewith or related thereto, including such documents evidencing successive Refinancings of the Third Lien Obligations, in each case, as amended, amended and restated, supplemented, modified, replaced, substituted or renewed from time to time in accordance with the terms of this Agreement.

"**Third Lien Obligations**" means all obligations, liabilities and indebtedness of every kind, nature and description owing by one or more Obligors to one or more of the Third Lien Creditors evidenced by or arising under one or more of the Third Lien Documents, whether direct or indirect, absolute or contingent, joint or several, due or not due, primary or secondary, liquidated or unliquidated, including principal, interest, charges, fees, costs, indemnities and reasonable expenses, however evidenced, whether as principal, surety, endorser, guarantor or otherwise, whether now existing or hereafter arising, whether arising before, during or after the initial or any renewal term of the Third Lien Credit Agreement and whether arising before, during or after the commencement of any Insolvency Proceeding with respect to any Obligor (and including the payment of any principal, interest, fees, cost, expenses and other amounts (including default rate interest) which would accrue and become due but for the commencement of such Insolvency Proceeding, whether or not such amounts are allowed or allowable in whole or in part in any such Insolvency Proceeding).

"**Third Lien Standstill Period**" means the period commencing on the date of a Third Lien Default and ending upon the date which is the earlier of (a) commencement of an Insolvency Proceeding and (b) the later to occur of the First Lien Termination Date and the Second Lien Termination Date.

"**UCC**" means the Uniform Commercial Code of any applicable jurisdiction and, if the applicable jurisdiction shall not have any Uniform Commercial Code, the Uniform Commercial Code as in effect in the State of New York.

"**UCC Notice**" shall have the meaning set forth in Section 3.1.

1.2 **Certain Matters of Construction.** The words "hereof", "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement and section references are to this Agreement unless otherwise specified. For purposes of this Agreement, the following additional rules of construction shall apply: (a) wherever from the context it appears appropriate, each term stated in either the singular or plural shall include the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, the feminine and the neuter, (b) the term "including" shall not be limiting or exclusive, unless specifically indicated to the contrary, (c) all references to statutes and related regulations shall include any amendments of same and any successor statutes and regulations and (d) unless otherwise specified, all references to any instruments or agreements, including references to any of this Agreement and the Documents, shall include any and all modifications or amendments thereto and any and all extensions or renewals thereof, in each case, made in accordance with the terms hereof. Any agreement, consent, waiver or acceptance, as applicable,

by the First Lien Trustee set forth herein shall be construed to mean an agreement, consent, waiver or acceptance, as applicable, by First Lien Trustee on behalf of itself and each of the other First Lien Creditors. Any agreement, consent, waiver or acceptance, as applicable, by the Second Lien Trustee set forth herein shall be construed to mean an agreement, consent, waiver or acceptance, as applicable, by the Second Lien Trustee on behalf of itself and each of the other Second Lien Creditors. Any agreement, consent, waiver or acceptance, as applicable, by the Credit Agreement Agent set forth herein shall be construed to mean an agreement, consent, waiver or acceptance, as applicable, by the Credit Agreement Agent on behalf of itself and each of the other Third Lien Creditors.

Section 2. **Security Interests; Priorities.**

2.1 Priorities. (a) The Liens on the Collateral of the Collateral Agent for the benefit of the First Lien Trustee or any other First Lien Creditor are and shall at all times be senior and prior in all respects to the Liens on the Collateral of the Collateral Agent for the benefit of the Second Lien Trustee or any other Second Lien Creditor and the Credit Agreement Agent or any other Third Lien Creditor, and such Liens on the Collateral of the Collateral Agent for the benefit of the Second Lien Trustee or any other Second Lien Creditor and the Credit Agreement Agent or any other Third Lien Creditor are and shall be junior and subordinate in all respects to the Liens on the Collateral of the Collateral Agent or for the benefit of the First Lien Trustee or any other First Lien Creditor. The Liens on the Collateral of the Collateral Agent for the benefit of the Second Lien Trustee or any other Second Lien Creditor are and shall at all times be senior and prior in all respects to the Liens on the Collateral of the Collateral Agent for the benefit of the Credit Agreement Agent or any other Third Lien Creditor, and such Liens on the Collateral of the Collateral Agent for the benefit of the Credit Agreement Agent or any other Third Lien Creditor are and shall be junior and subordinate in all respects to the Liens on the Collateral of the Collateral Agent for the benefit of the Second Lien Trustee or any other Second Lien Creditor.

(b) To the extent that the Liens of, or for the benefit of, the First Lien Trustee on the Collateral secure any amount which is greater than the Maximum First Lien Amount, then such Lien shall in all respects be junior and subordinate to all Liens granted to, or for the benefit of, the Second Lien Trustee (and the Second Lien Creditors) and the Credit Agreement Agent (and the Third Lien Creditors) in such Collateral.

(c) The priorities of the Liens provided in this Section 2.1 shall not be altered or otherwise affected by any amendment, amendment and restatement, modification, supplement, renewal, replacement or Refinancing of any of the Obligations, nor by any action or inaction which any of the Secured Creditors or Obligors may take or fail to take in respect of the Collateral or any such Lien.

2.2 No Alteration of Priority. The priorities set forth in this Agreement are applicable irrespective of (i) the order or time of attachment, (ii) the order, time or manner of perfection, (iii) the order or time of filing or recording any document or instrument, or other method of perfecting a Lien in favor of each Secured Creditor in any Collateral, or (iv) any other circumstance whatsoever (including, without limitation, any provision of the UCC or any

applicable law or any conflicting terms or conditions which may be contained in any of the Documents).

2.3 Perfection; Contesting Liens. Pursuant to the Runoff Security Agreement and the other applicable Documents, the Obligors shall be solely responsible for perfecting and maintaining the perfection of the Collateral Agent's Liens in the Collateral. This Section 2 is intended solely to govern the respective Lien priorities as among the Secured Creditors and shall not impose on any Secured Creditor any obligations in respect of the Disposition or proceeds of any Collateral that would conflict with prior perfected Liens therein in favor of any other Person or any order or decree of any court or governmental authority or any applicable law. Each Secured Creditor agrees that it will not, directly or indirectly institute or join in any contest of, or support any other Person in contesting (including, in either case, in any Insolvency Proceeding), the validity, perfection, priority or enforceability of the Liens of any of the other Secured Creditors in the Collateral or the enforceability of the First Lien Obligations, the Second Lien Obligations or the Third Lien Obligations or any provision of this Agreement; provided that nothing in this Agreement shall be construed to prevent or impair the rights of the Collateral Agent, the First Lien Trustee, the Second Lien Trustee or the Credit Agreement Agent to enforce this Agreement, including the provisions hereof relating to Lien priority. Notwithstanding any failure by any of the Collateral Agent, the First Lien Trustee, the Second Lien Trustee or the Credit Agreement Agent to perfect any security interests in the Collateral or any avoidance, invalidation or subordination by any third party or court of competent jurisdiction of the security interests in the Collateral granted to the Collateral Agent, the First Lien Trustee, the Second Lien Trustee or the Credit Agreement Agent, the priority and rights as between (x) the Liens of the Collateral Agent for the benefit of the First Lien Trustee, on the one hand, and the Liens of the Collateral Agent for the benefit of the Second Lien Trustee and the Credit Agreement Agent, on the other hand, and (y) the Liens of the Collateral Agent for the benefit of the First Lien Trustee and the Second Lien Trustee, on the one hand, and the Liens of the Collateral Agent for the benefit of the Credit Agreement Agent, on the other hand, in each case, shall be as set forth herein.

2.4 Proceeds of Collateral and Recourse Assets; Turnover.

(a) All amounts on deposit in the Collateral Account and any other Runoff Proceeds Distributions that are not received in connection with any Collateral Enforcement Action or other exercise of remedies with respect to the Collateral shall be distributed by the Collateral Agent at the direction of the Issuer as follows: (i) first, (w) to the First Lien Trustee, the Second Lien Trustee and the Collateral Agent for application to the pro rata payment of any compensation, fees and expenses, if any, due to the First Lien Trustee, the Second Lien Trustee, and the Collateral Agent, and their agents and attorneys, for amounts due under Section 8.07 of the First Lien Indenture, Section 8.07 of the Second Lien Indenture and Section 6.10 of the Runoff Security Agreement, (x) to the Issuer for application to the Issuer Incremental Amount on the Issuer Priority Amount, and any unpaid Issuer Priority Amount and (y), to the paying agent under the First Lien Indenture for application to the First Lien Obligations until Payment in Full of the First Lien Obligations, in the case of each of (w), (x) and (y) in accordance with the First Lien Indenture Waterfall as in effect on the date hereof; (ii) second, (x) to the Issuer for application to the Issuer Incremental Amount on the Issuer Secondary Amount and any unpaid Issuer Secondary Amount, and (y) to the paying agent under the Second Lien Indenture for

application to the Second Lien Obligations until Payment in Full of the Second Lien Obligations in the case of each of (x) and (y) in accordance with the Second Lien Indenture Waterfall as in effect on the date hereof, and (iii) third, (A) if a Third Lien Default has occurred and is continuing and the Credit Agreement Agent has delivered a Third Lien Default Notice that has not been withdrawn, to the Credit Agreement Agent for application to the Third Lien Obligations in accordance with the Third Lien Credit Agreement, otherwise, (B) to the Issuer.

(b) All Collateral, including any such Collateral constituting proceeds, received in connection with any Collateral Enforcement Action or other exercise of remedies with respect to the Collateral shall be distributed by the Collateral Agent as follows: (i) first, to the First Lien Trustee, the Second Lien Trustee, and the Collateral Agent, for application to the pro rata payment of any compensation, fees and expenses, if any, due to the First Lien Trustee, the Second Lien Trustee and the Collateral Agent, and their agents and attorneys, for amounts due under Section 8.07 of the First Lien Indenture, Section 8.07 of the Second Lien Indenture and Section 6.10 of the Runoff Security Agreement, including payment of all compensation, expenses and liabilities incurred, and all advances made, by such Persons and the costs and expenses of collection; (ii) second, to the paying agent under the First Lien Indenture for application to the payment to the First Lien Noteholders for amounts due and unpaid on the First Lien Notes for principal, premium, if any, and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the First Lien Notes for principal, premium, if any, and interest, respectively until Payment in Full of the First Lien Obligations; (iii) third, to the paying agent under the Second Lien Indenture for application to the payment to the Second Lien Noteholders for amounts due and unpaid on the Second Lien Notes for principal, premium, if any, and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Second Lien Notes for principal, premium, if any, and interest, respectively, until Payment in Full of the Second Lien Obligations; and (iv) fourth, (A) if a Third Lien Default has occurred and is continuing and the Credit Agreement Agent has delivered a Third Lien Default Notice that has not been withdrawn, to the Credit Agreement Agent for application to the Third Lien Obligations in accordance with the Third Lien Credit Agreement, otherwise, (B) to the Issuer.

(c) Any Collateral, including such Collateral constituting proceeds, (including any Runoff Proceeds Distributions) received by any Second Lien Creditor or Third Lien Creditor prior to the First Lien Termination Date (i) in connection with any Collateral Enforcement Action or other exercise of remedies with respect to the Collateral, (ii) in connection with any insurance policy claim or any condemnation award (or deed in lieu of condemnation) with respect to the Collateral, (iii) from the collection or other Disposition of, or realization on, the Collateral, whether or not pursuant to an Insolvency Proceeding or (iv) in violation of this Agreement, shall be segregated and held in trust and promptly paid over to the Collateral Agent, for the benefit of the First Lien Creditors, in the same form as received, with any necessary endorsements, and each Second Lien Creditor and Third Lien Creditor hereby authorizes the Collateral Agent to make any such endorsements as agent for the Second Lien Creditors or Third Lien Creditor, as applicable (which authorization, being coupled with an interest, is irrevocable).

(d) Any Collateral, proceeds (including any Runoff Proceeds Distributions) received by any Third Lien Creditor after the First Lien Termination Date and prior to the Second Lien Termination Date (i) in connection with any Collateral Enforcement Action or other

exercise of remedies with respect to the Collateral, (ii) in connection with any insurance policy claim or any condemnation award (or deed in lieu of condemnation) with respect to the Collateral, (iii) from the collection or other Disposition of, or realization on, the Collateral, whether or not pursuant to an Insolvency Proceeding or (iv) in violation of this Agreement, shall be segregated and held in trust and promptly paid over to the Collateral Agent, for the benefit of the Second Lien Creditors, in the same form as received, with any necessary endorsements, and each Third Lien Creditor hereby authorizes the Collateral Agent to make any such endorsements as agent for the Third Lien Creditor (which authorization, being coupled with an interest, is irrevocable).

(e) As between the First Lien Creditors, the Second Lien Creditors and the Third Lien Creditors, all Recourse Proceeds shall be distributed as follows:

FIRST: To the pro rata payment of any compensation, fees and expenses, if any, due to the First Lien Trustee, the Second Lien Trustee and the Collateral Agent, and their agents and attorneys, for amounts due under Section 8.07 of the First Lien Indenture, Section 8.07 of the Second Lien Indenture and Section 6.10 of the Runoff Security Agreement, as the case may be;

SECOND: To the First Lien Trustee to be applied to the payment to the First Lien Noteholders of any accrued and unpaid interest, if any, with respect to the First Lien Notes;

THIRD: To the First Lien Trustee to be applied to the payment to the First Lien Noteholders of the unpaid principal of the First Lien Notes and all other First Lien Obligations;

FOURTH: To the Second Lien Trustee to be applied to the payment to the Second Lien Noteholders of any accrued and unpaid interest, if any, with respect to the Second Lien Notes;

FIFTH: To the Second Lien Trustee to be applied to the payment to the Second Lien Noteholders of the unpaid principal of the Second Lien Notes and all other Second Lien Obligations;

SIXTH: To the Credit Agreement Agent to be applied to the payment to the Third Lien Creditors of the Third Lien Obligations in the order and manner provided in the Third Lien Documents; and

SEVENTH: To the Issuer or to such party as a court of competent jurisdiction shall direct.

Any such Recourse Proceeds that may be received by any Second Lien Creditor or Third Lien Creditor prior to the First Lien Termination Date shall be shall be segregated and held in trust and promptly paid over to the Collateral Agent to be paid in accordance with clause FIRST above. Following the payment in full of clause FIRST above, such Recourse Proceeds shall be promptly paid over to the First Lien Trustee, for the benefit of the First Lien Creditors, in the same form as received, with any necessary endorsements, and each Second Lien Creditor and

Third Lien Creditor hereby authorizes the First Lien Trustee to make any such endorsements as agent for the Second Lien Creditors and the Third Lien Creditors (which authorization, being coupled with an interest, is irrevocable). Any such Recourse Proceeds that may be received by any Third Lien Creditor after the First Lien Termination Date but prior to the Second Lien Termination Date shall be segregated and held in trust and promptly paid over to the Second Lien Trustee, for the benefit of the Second Lien Creditors, in the same form as received, with any necessary endorsements, and each Third Lien Creditor hereby authorizes the Second Lien Trustee to make any such endorsements as agent for the Third Lien Creditors (which authorization, being coupled with an interest, is irrevocable).

2.5 Waiver. Each of the First Lien Trustee, on behalf of each of the First Lien Creditors, the Second Lien Trustee, on behalf of each of the Second Lien Creditors, and the Credit Agreement Agent, on behalf of each of the Third Lien Creditors, (a) waives any and all notice of the creation, renewal, extension or accrual of any of the Obligations under the Documents and notice of or proof of reliance by the Secured Creditors upon this Agreement and protest, demand for payment or notice except to the extent otherwise specified herein and (b) acknowledges and agrees that each of the other Secured Creditors have relied upon the Lien priority and other provisions hereof in entering into the Documents and creating the Obligations.

2.6 Notice of Interest In Collateral. This Agreement is intended, in part, to constitute an authenticated notification of a claim by each Secured Creditor to the other Secured Creditors of an interest in the Collateral in accordance with the provisions of Sections 9-611 and 9-621 of the UCC.

2.7 New Liens. Until the First Lien Termination Date, the First Lien Trustee on behalf of the First Lien Creditors and the Second Lien Trustee on behalf of the Second Lien Creditors agree that, regardless of whether any Insolvency Proceeding shall have been commenced against any Obligor, no additional Liens shall be granted or permitted on any asset of the Issuer or any other Obligor to secure any (i) Second Lien Obligation unless, subject to the terms of this Agreement, immediately after giving effect to such grant or concurrently therewith, a senior and prior Lien shall be granted to the Collateral Agent on such asset to secure the First Lien Obligations or (ii) First Lien Obligation unless, subject to the terms of this Agreement, immediately after giving effect to such grant or concurrently therewith, a junior and subordinate Lien in respect of the Second Lien Obligations shall be granted to the Collateral Agent on such asset to secure the Second Lien Obligations. If and to the extent that the Third Lien Creditors do not already have a Lien on such asset covered in the immediately preceding sentence, then a junior and subordinate Lien shall also be granted to the Collateral Agent on such asset to secure the Third Lien Obligations. Each asset subject to such additional Liens shall constitute Collateral for all purposes of this Agreement as if expressly included in the definition of such term. To the extent that the foregoing provisions are not complied with for any reason, without limiting any other rights and remedies available to the First Lien Trustee and/or the First Lien Creditors, the Second Lien Trustee, on behalf of the Second Lien Creditors, agrees that any amounts received by or distributed to any of them pursuant to or as a result of Liens granted in contravention of this Section 2.7 shall be distributed in accordance with Section 2.4 and in all other respects shall be subject to the terms of this Agreement.

2.8 Same Liens and Agreements. The parties hereto acknowledge and agree that (subject to Section 2.7) it is their intention that the Collateral securing the First Lien Obligations and the Collateral securing the Second Lien Obligations be the same. In furtherance of the foregoing, and subject to Section 2.7, the parties hereto agree:

(a) to cooperate in good faith in order to determine, upon any request by any Agent, the specific assets included in the Collateral securing their respective Obligations, the steps taken to perfect the Liens thereon and the identity of the respective parties obligated under any Document;

(b) that the documents, agreements and instruments creating or evidencing the Liens of such parties in the Collateral, as of the date hereof, are in all material respects substantively similar, other than with respect to the relative priority of the Liens created or evidenced thereunder; and

(c) any Lien on the Collateral obtained by any Secured Creditor in respect of any judgment obtained in respect of any Obligations shall be subject in all respects to the terms of this Agreement.

2.9 Release.

(a) If in connection with any Release Event prior to the First Lien Termination Date, the First Lien Trustee, for itself or on behalf of any of the First Lien Creditors, instructs the Collateral Agent to release any of its Liens on any part of the Collateral, then the Liens, if any, of the Collateral Agent for the benefit of the Second Lien Trustee, for itself or for the benefit of the Second Lien Creditors, on such Collateral, and the Liens, if any, of the Collateral Agent for the benefit of the Credit Agreement Agent, for itself or for the benefit of the Third Lien Creditors, on such Collateral shall be each automatically, unconditionally and simultaneously released. The Second Lien Trustee, for itself or on behalf of the Second Lien Creditors, and the Credit Agreement Agent, for itself or on behalf of the Third Lien Creditors, promptly shall execute and deliver to the Collateral Agent, the First Lien Trustee or the Issuer such termination statements, releases and other documents (collectively, the "Release Documentation") as the Collateral Agent, the First Lien Trustee or the Issuer may request to effectively confirm the foregoing releases.

(b) If in connection with any Disposition prior to the First Lien Termination Date permitted under the terms of the First Lien Documents (other than in connection with a Release Event prior to the First Lien Termination Date which shall be governed by Section 2.9(a) above), the First Lien Trustee, for itself or on behalf of any of the First Lien Creditors, instructs the Collateral Agent to release any of its Liens on any part of the Collateral, in each case, other than in connection with, the First Lien Termination Date, then the Liens, if any, of the Collateral Agent for the benefit of the Second Lien Trustee, for itself or for the benefit of the Second Lien Creditors, on such Collateral, and the Liens, if any, of the Collateral Agent for the benefit of the Credit Agreement Agent, for itself or for the benefit of the Third Lien Creditors, on such Collateral shall be each automatically, unconditionally and simultaneously released; provided, however, that the Liens of the Collateral Agent for the benefit of the First Lien Trustee, the Second Lien Trustee and the Credit Agreement Agent shall attach to the proceeds of such

Disposition and such proceeds shall be applied in accordance with Section 2.4(a) above. The Second Lien Trustee, for itself or on behalf of the Second Lien Creditors, and the Credit Agreement Agent, for itself or on behalf of the Third Lien Creditors, promptly shall execute and deliver to the Collateral Agent, the First Lien Trustee, or the Issuer such Release Documentation as the Collateral Agent, the First Lien Trustee, or the Issuer may request to effectively confirm the foregoing releases.

(c) If in connection with any Release Event after the First Lien Termination Date but prior to the Second Lien Termination Date, the Second Lien Trustee, for itself or on behalf of any of the Second Lien Creditors, instructs the Collateral Agent to release any of its Liens on any part of the Collateral, then the Liens, if any, of the Collateral Agent for the benefit of the Credit Agreement Agent, for itself or for the benefit of the Third Lien Creditors, on such Collateral shall be each automatically, unconditionally and simultaneously released. The Credit Agreement Agent, for itself or on behalf of the Third Lien Creditors, promptly shall execute and deliver to the Second Lien Trustee, or the Issuer such Release Documentation as the Collateral Agent, the Second Lien Trustee or the Issuer may request to effectively confirm the foregoing releases.

(d) If in connection with any Disposition after the First Lien Termination Date but prior to the Second Lien Termination Date permitted under the terms of the Second Lien Documents (other than in connection with a Release Event after the First Lien Termination Date but prior to the Second Lien Termination Date which shall be governed by Section 2.9(c) above), the Second Lien Trustee, for itself or on behalf of any of the Second Lien Creditors, instructs the Collateral Agent to release any of its Liens on any part of the Collateral, in each case, other than in connection with the Second Lien Termination Date, then the Liens, if any, of the Collateral Agent for the benefit of the Credit Agreement Agent, for itself or for the benefit of the Third Lien Creditors, on such Collateral shall be each automatically, unconditionally and simultaneously released; provided, however, that the Liens of the Collateral Agent for the benefit of the Second Lien Trustee and the Credit Agreement Agent shall attach to the proceeds of such Disposition and such proceeds shall be applied in accordance with Section 2.4(a) above. The Credit Agreement Agent, for itself or on behalf of the Third Lien Creditors, promptly shall execute and deliver to the Collateral Agent, the Second Lien Trustee or the Issuer such Release Documentation as the Collateral Agent, the Second Lien Trustee or the Issuer may request to effectively confirm the foregoing releases.

Section 3. **Enforcement of Security.**

3.1 Management of Collateral. (a) Subject to the other terms and conditions of this Agreement, prior to the First Lien Termination Date, the First Lien Trustee and the First Lien Creditors shall have the exclusive right to enforce the rights and exercise remedies with respect to the Collateral (including taking or retaking control or possession of the Collateral), to instruct the Collateral Agent to commence and maintain any Collateral Enforcement Action, to make determinations regarding the release, Disposition or liquidation of the Collateral and to instruct the Collateral Agent to exercise all the rights and remedies with respect to the Collateral of a secured lender under the UCC or other applicable law of any applicable jurisdiction, all in such order in such manner as they may determine in the exercise of their sole discretion and without consultation with the Second Lien Trustee or the Second Lien Creditors or the Credit Agreement

Agent or the Third Lien Creditors and regardless of whether any such exercise or enforcement is adverse to the interest of any Second Lien Creditor or Third Lien Creditor. In conducting any public or private sale of the Collateral under the UCC, the First Lien Trustee shall give (or instruct the Collateral Agent to give) the Second Lien Trustee and Credit Agreement Agent such notice (a "UCC Notice") of such sale as may be required by the applicable UCC; provided, however, that 10 days' notice shall be deemed to be commercially reasonable notice. Except as specifically provided in this Section 3.1 or Section 3.3 below, notwithstanding any rights or remedies available to a Second Lien Creditor or Third Lien Creditor under any of the Second Lien Documents or Third Lien Documents, applicable law or otherwise, no Second Lien Creditor and no Third Lien Creditor shall, directly or indirectly, take (or instruct the Collateral Agent to take) any Collateral Enforcement Action or otherwise exercise any rights or remedies with respect to the Collateral; provided that, subject at all times to the provisions of Section 2, upon the expiration of the applicable Second Lien Standstill Period, the Second Lien Creditors may take or instruct the Collateral Agent to take any Collateral Enforcement Action (provided that they give or instruct the Collateral Agent to give the First Lien Trustee and Credit Agreement Agent at least five (5) Business Days' written notice prior to taking such Collateral Enforcement Action); provided, however, that notwithstanding the expiration of the Second Lien Standstill Period or anything herein to the contrary, in no event shall any Second Lien Creditor commence or continue or instruct the Collateral Agent to commence or continue any Collateral Enforcement Action or any other exercise of any rights or remedies with respect to the Collateral if the First Lien Trustee or any First Lien Creditor (or the Collateral Agent on behalf of the First Lien Trustee) shall have commenced, and be diligently pursuing any Collateral Enforcement Action or other exercise of rights and remedies in each case in respect to all or any material portion of the Collateral (prompt notice of such exercise to be given to the Second Lien Trustee and the Credit Agreement Agent (including, without limitation, any of the following (if undertaken and pursued to consummate a Disposition of Collateral within a commercially reasonable time): the solicitation of bids from third parties to conduct the liquidation of all or any material portion of the Collateral, the engagement or retention of sales brokers, marketing agents, investment bankers, accountants, auctioneers or other third parties for the purpose of valuing, marketing, promoting or selling all or any material portion of the Collateral, the notification of account debtors to make payments to the Collateral Agent or the First Lien Trustee, the initiation of any action to take possession of all or any material portion of the Collateral or the commencement of any legal proceedings or actions against or with respect to the foreclosure and sale of all or any material portion of the Collateral), or diligently attempting in good faith to vacate any stay prohibiting an Collateral Enforcement Action with respect to all or any material portion of the Collateral or diligently attempting in good faith to vacate any stay prohibiting an Collateral Enforcement Action.

(b) Subject to the other terms and conditions of this Agreement, after the First Lien Termination Date but prior to the Second Lien Termination Date, the Second Lien Trustee and the Second Lien Creditors shall have the exclusive right to enforce the rights and exercise remedies with respect to the Collateral (including taking or retaking control or possession of the Collateral), to instruct the Collateral Agent to commence and maintain any Collateral Enforcement Action, to make determinations regarding the release, Disposition or liquidation of the Collateral and to exercise all the rights and remedies with respect to the Collateral of a secured lender under the UCC or other applicable law of any applicable jurisdiction, all in such order in such manner as they may determine in the exercise of their sole discretion and without

consultation with the Credit Agreement Agent or the Third Lien Creditors and regardless of whether any such exercise or enforcement is adverse to the interest of any Third Lien Creditor. In conducting any public or private sale under the UCC, the Second Lien Trustee shall give (or instruct the Collateral Agent to give) the Credit Agreement Agent a UCC Notice; provided, however, that 10 days' notice shall be deemed to be commercially reasonable notice. Except as specifically provided in this Section 3.1 or Section 3.3 below, notwithstanding any rights or remedies available to a Third Lien Creditor under any of the Third Lien Documents, applicable law or otherwise, no Third Lien Creditor shall, directly or indirectly, take (or instruct the Collateral Agent to take) any Collateral Enforcement Action prior to the expiration of the Third Lien Standstill Period.

(c) Prior to the First Lien Termination Date, the Second Lien Trustee and the other Second Lien Creditors shall not contest or object to any Collateral Enforcement Action taken by any First Lien Creditor (or by the Collateral Agent on behalf of the First Lien Creditor) or to any forbearance or delay by any First Lien Creditor (or by the Collateral Agent on behalf of the First Lien Creditor) in commencing or maintaining any Collateral Enforcement Action.

(d) The Credit Agreement Agent and the other Third Lien Creditors shall not contest or object to any Collateral Enforcement Action taken by any First Lien Creditor or Second Lien Creditor (or by the Collateral Agent on behalf of the First Lien Creditors or Second Lien Creditors) or to any forbearance or delay by any First Lien Creditor or Second Lien Creditor (or by the Collateral Agent on behalf of the First Lien Creditors or Second Lien Creditors) in commencing or maintaining any Collateral Enforcement Action.

3.2 Notices of Default. Each Representative agrees to use commercially reasonable efforts to give to the other Representatives and the Collateral Agent concurrently with the giving thereof to any Obligor (a) a copy of any written notice by any Secured Creditor of an Event of Default under any of its Documents or a written notice of demand for payment from any Obligor and (b) a copy of any written notice sent by such Secured Creditor or the Collateral Agent to any Obligor stating such Secured Creditor's or the Collateral Agent's intention to take any Collateral Enforcement Action; provided that the failure of any Representative to give such required notice shall not result in any liability to such Representative or affect the enforceability of any provision of this Agreement, including the relative priorities of the Liens of the Secured Creditors as provided herein, and shall not affect the validity or effectiveness of any such notice as against any Obligor; provided, further, that the foregoing shall not in any way impair any claims that any Secured Creditor may have against any other Secured Creditor as a result of any failure of any Representative to provide a UCC Notice in accordance with the provisions of this Agreement and applicable law (including without limitation any liability that any Secured Creditor may have to any other Secured Creditor as a result of any such failure). Each Representative will provide (or instruct the Collateral Agent to provide) such information as it may have to the other Representative or Representatives as the other Representative or Representatives may from time to time reasonably request concerning the status of the exercise of any Collateral Enforcement Action, and each Representative shall be available on a reasonable basis during normal business hours to review with the other Representatives alternatives available in exercising such rights, including, but not limited to, advising each other of any offers which may be made from time to time by prospective purchasers of the Collateral; provided that (i) the failure of any party to do any of the foregoing shall not affect the relative priorities of the respective Liens as provided

herein or the validity or effectiveness of any notices or demands as against any Issuer or any Obligor and (ii) in no event will the First Lien Trustee or any First Lien Creditor (and after the First Lien Termination Date, the Second Lien Trustee or any Second Lien Creditor) have any obligation to obtain the consent of or to accept any recommendation from any Second Lien Creditor or Third Lien Creditor with respect to any actions taken or contemplated to be taken (or not taken) with respect to any Collateral Enforcement Action. Each Obligor, by its acknowledgment hereto, hereby consents and agrees to each Secured Creditor providing any such information to the other Secured Creditors (subject to the confidentiality obligations applicable to the Secured Creditors under the relevant Documents in each case) and to such actions by the Secured Creditors and waives any rights or claims against any Secured Creditors arising as a result of such information or actions.

3.3 Permitted Actions. Section 3.1 shall not be construed to limit or impair in any way the right of: (a) any Secured Creditor to commence or continue any Specific Performance Action (but all Secured Creditors shall cooperate with each other in respect of all Specific Performance Actions pursued), (b) any Secured Creditor to bid for or purchase Collateral at any private or judicial foreclosure upon such Collateral initiated by any Secured Creditor, (provided, that such bid may not include a "credit bid" in respect of any Second Lien Obligations or Third Lien Obligations unless the proceeds of such bid are otherwise sufficient to cause the Payment in Full of the Obligations held by all Secured Creditors that are senior in priority of Liens hereunder), (c) any Secured Creditor to join (but not control) any foreclosure or other judicial lien enforcement proceeding with respect to the Collateral initiated by another Secured Creditor for the sole purpose of protecting such Secured Creditor's Lien on the Collateral, so long as it does not delay or interfere with the exercise by such other Secured Creditor of its rights under this Agreement, the Documents and under applicable law; (d) any Secured Creditor to file a claim or statement of interest in any Insolvency Proceeding); (e) any Secured Creditor to take action to create, perfect or maintain the perfection of its Lien on the Collateral (so long as such action is not adverse to the priority hereunder of any other Secured Creditor's Lien or the rights hereunder of any Secured Creditor to take Collateral Enforcement Action; (f) any Secured Creditor to file any pleadings to oppose any claim or action that objects to or seeks to disallow such Secured Creditor's Lien or Obligations; (g) any Secured Creditor to vote on any plan of reorganization; (h) the Second Lien Creditors to receive any remaining proceeds of Collateral after the First Lien Obligations have been Paid in Full and (i) the Third Lien Creditors to receive any remaining proceeds of Collateral after the First Lien Obligations and Second Lien Obligations have been Paid in Full. Any proceeds of Collateral received in connection with any such Collateral Enforcement Action permitted under this Section 3.3 shall be applied in accordance with Section 2 of this Agreement. Except as specifically set forth in Sections 3.1, nothing in this Agreement shall prohibit the receipt by the Credit Agreement Agent or any Third Lien Creditor of the required payments of interest, principal and other amounts owed in respect of the Third Lien Obligations so long as such receipt is not the direct or indirect result of the exercise by the Credit Agreement Agent or any Third Lien Creditor (or the Collateral Agent on their behalf) of rights or remedies as a secured creditor with respect to the Collateral (including set-off and recoupment) or enforcement in contravention of this Agreement of any Lien on the Collateral held by any of them.

3.4 Collateral In Possession.

(a) In the event that any Secured Creditor takes possession of or has control (as such term is used in the UCC as in effect in each applicable jurisdiction) over any Collateral for purposes of perfecting the Lien for its benefit hereunder, such Secured Creditor shall be deemed to be holding such Collateral as gratuitous bailee for the other Secured Creditors, solely for purposes of perfection of their Lien under the UCC; provided that such Secured Creditor shall not have any obligation to ensure that any such Collateral is genuine or owned by any Obligor or any duty or liability to protect or preserve any rights pertaining to any of the Collateral for the other Secured Creditors. At the request of the Collateral Agent, the Secured Creditor having such possession or control shall promptly deliver possession or control of such Collateral to the Collateral Agent.

(b) It is understood and agreed that this Section 3.4 is intended solely to assure continuous perfection of the Liens granted under the applicable Documents, and nothing in this Section 3.4 shall be deemed or construed as altering the priorities or obligations set forth elsewhere in this Agreement. The duties of each party under this Section 3.4 shall be mechanical and administrative in nature, and no party shall have, or be deemed to have, by reason of this Agreement or otherwise a fiduciary relationship in respect of the other party. No Representative or other Secured Creditor shall have any liability to any other Secured Creditor in connection with acting as gratuitous bailee with respect to any Collateral except for actual damages directly caused by its gross negligence or willful misconduct as determined in a final non-appealable order of a court of competent jurisdiction.

(c) Contemporaneously with the execution of this Agreement, each of the Representatives agrees to cooperate in a commercially reasonable manner to enter into, and instruct the Collateral Agent to enter into, an account control agreement with respect to the Collateral Account and each other deposit or securities account into which any Runoff Proceeds or other Collateral may be credited or deposited, which grants the Collateral Agent control over such account for purposes of perfecting its security interest.

3.5 Waiver of Marshalling and Similar Rights. Each Representative for itself and each Secured Creditor it represents to the fullest extent permitted by applicable law, waives as to all other Secured Creditors any requirement regarding, and agrees not to demand, request, plead or otherwise claim the benefit of, any marshalling, appraisement, valuation or other similar right that may otherwise be available under applicable law.

3.6 Insurance and Condemnation Awards. So long as the First Lien Termination Date has not occurred, the First Lien Trustee shall have the exclusive right, subject to the First Lien Documents and the rights of the Obligors under the First Lien Documents, to settle and adjust (or instruct the Collateral Agent to settle or adjust) claims in respect of Collateral under policies of insurance and to approve any award granted in any condemnation or similar proceeding, or any deed in lieu of condemnation, in respect of the Collateral.[1] After the occurrence of the First Lien Termination Date and so long as the Second Lien Termination Date has not occurred, the Second Lien Trustee shall have the exclusive right, subject to the Second Lien Documents and the rights of the Obligors under the Second Lien Documents, to settle and adjust (or instruct the Collateral

[1] Add provision to the Indentures for Note Holders to direct the Trustee on settlement and adjustment.

Agent to settle or adjust) claims in respect of Collateral under policies of insurance and to approve any award granted in condemnation or similar proceeding, or any deed in lieu of condemnation, in respect of the Collateral.

Section 4. **Covenants**

4.1 Amendment of First Lien Documents. The First Lien Creditors may at any time and from time to time and without consent of or notice to any Second Lien Creditor or Third Lien Creditor, without incurring any liability to any Second Lien Creditor or Third Lien Creditor and without impairing or releasing any rights or obligations hereunder or otherwise, agree with the Obligors to amend, restate, supplement, modify, substitute, renew or replace any or all of the First Lien Documents; provided, however, that without the consent of the Second Lien Trustee and, only with respect to clauses (b) and (c) below, the Credit Agreement Agent, no First Lien Creditor shall amend, restate, supplement, modify, substitute, renew or replace any or all of the First Lien Documents to (a) increase the amount of the First Lien Obligations in excess of the Maximum First Lien Amount (except through the issuance of additional notes in payment of, or the capitalization of, interest at the rate set forth in the First Lien Indenture as in effect on the date hereof), (b) modify or add any covenant or event of default under the First Lien Documents, which directly restricts one or more Obligors from making payments or granting Liens on the Collateral under the Second Lien Documents and Third Lien Documents which would otherwise be permitted under the First Lien Documents as in effect on the date hereof or (c) make any other change or changes to the First Lien Documents that are otherwise adverse, individually or in the aggregate, to the Second Lien Creditors or Third Lien Creditors in any manner.

4.2 Amendments to Second Lien Documents. The Second Lien Creditors may at any time and from time to time and without consent of or notice to any First Lien Creditor or Third Lien Creditor, without incurring any liability to any First Lien Creditor or Third Lien Creditor and without impairing or releasing any rights or obligations hereunder or otherwise, agree with the Obligors to amend, restate, supplement, modify, substitute, renew or replace any or all of the Second Lien Documents; provided, however, that without the consent of the First Lien Trustee (if the First Lien Termination Date has not occurred) and Credit Agreement Agent, no Second Lien Creditor shall amend, restate, supplement, modify, substitute, renew or replace any or all of the Second Lien Documents to (a) modify or add any covenant or event of default under the Second Lien Documents, which directly restricts one or more Obligors from making payments or granting Liens on the Collateral under the First Lien Documents and Third Lien Documents which would otherwise be permitted under the Second Lien Documents as in effect on the date hereof or (b) make any other change or changes to the Second Lien Documents that are otherwise adverse, individually or in the aggregate, to the First Lien Creditors or Third Lien Creditors in any manner.

4.3 Amendment of Third Lien Documents. The Third Lien Creditors may at any time and from time to time and without consent of or notice to any First Lien Creditor or Second Lien Creditor, without incurring any liability to any First Lien Creditor or Second Lien Creditor and without impairing or releasing any rights or obligations hereunder or otherwise, agree with the Obligors to amend, restate, supplement, modify, substitute, renew or replace any or all of the Third Lien Documents; provided, however, that without the consent of the First Lien Trustee (if the First Lien Termination Date has not occurred) and Second Lien Trustee (if the Second Lien

Termination Date has not occurred), no Third Lien Creditor shall amend, restate, supplement, modify, substitute, renew or replace any or all of the Third Lien Documents to modify or add any covenant or event of default under the Third Lien Documents, which directly restricts one or more Obligors from making payments or granting Liens on the Collateral under the First Lien Documents and Second Lien Documents which would otherwise be permitted under the Third Lien Documents as in effect on the date hereof.

4.4 Effect of Refinancing.

(a) If the Payment in Full of the First Lien Obligations is being effected through a Refinancing; provided, that the credit agreement and the other documents evidencing such new First Lien Obligations (the "New First Lien Documents") do not effect an amendment, supplement or other modification of the terms of the First Lien Obligations in a manner that is prohibited by Section 4.1, then (A) such Payment in Full of First Lien Obligations shall be deemed not to have occurred for all purposes of this Agreement, (B) the indebtedness under such Refinancing and all other obligations under the credit documents evidencing such indebtedness (the "New First Lien Obligations") shall be treated as First Lien Obligations for all purposes of this Agreement, (C) the New First Lien Documents shall be treated as the First Lien Documents and (D) the trustee or agent under the New First Lien Documents (the "New First Lien Trustee") shall be deemed to be the First Lien Trustee for all purposes of this Agreement. Upon receipt of a notice of Refinancing under the preceding sentence, which notice shall include the identity of the New First Lien Trustee, the Second Lien Trustee and Credit Agreement Agent shall promptly enter into such documents and agreements (including amendments or supplements to this Agreement) as the New First Lien Trustee may reasonably request in order to provide to the New First Lien Trustee the rights and powers set forth herein.

(b) If the Payment in Full of the Second Lien Obligations is being effected through a Refinancing; provided, that the credit agreement and the other documents evidencing such New Second Lien Obligations (the "New Second Lien Documents") do not effect an amendment, supplement or other modification of the terms of the Second Lien Obligations in a manner that is prohibited by Section 4.2, then (A) such Payment in Full of Second Lien Obligations shall be deemed not to have occurred for all purposes of this Agreement, (B) the indebtedness under such Refinancing and all other obligations under the credit documents evidencing such indebtedness (the "New Second Lien Obligations") shall be treated as Second Lien Obligations for all purposes of this Agreement, (C) the New Second Lien Documents shall be treated as the Second Lien Documents and (D) the trustee or agent under the New Second Lien Documents (the "New Second Lien Trustee") shall be deemed to be the Second Lien Trustee for all purposes of this Agreement. Upon receipt of a notice of Refinancing under the preceding sentence, which notice shall include the identity of the New Second Lien Trustee, the First Lien Trustee and Credit Agreement Agent shall promptly enter into such documents and agreements (including amendments or supplements to this Agreement) as the New Second Lien Trustee may reasonably request in order to provide to the New Second Lien Trustee the rights and powers set forth herein.

(c) If the Payment in Full of the Third Lien Obligations is being effected through a Refinancing; provided, that the credit agreement and the other documents evidencing such New Third Lien Obligations (the "New Third Lien Documents") do not effect an

amendment, supplement or other modification of the terms of the Third Lien Obligations in a manner that is prohibited by Section 4.3, then (A) such Payment in Full of Third Lien Obligations shall be deemed not to have occurred for all purposes of this Agreement, (B) the indebtedness under such Refinancing and all other obligations under the credit documents evidencing such indebtedness (the "New Third Lien Obligations") shall be treated as Third Lien Obligations for all purposes of this Agreement, (C) the New Third Lien Documents shall be treated as the Third Lien Documents and (D) the trustee or agent under the New Third Lien Documents (the "New Third Lien Agent") shall be deemed to be the Credit Agreement Agent for all purposes of this Agreement. Upon receipt of a notice of Refinancing under the preceding sentence, which notice shall include the identity of the New Third Lien Agent, the First Lien Trustee and Second Lien Trustee shall promptly enter into such documents and agreements (including amendments or supplements to this Agreement) as the New Third Lien Agent may reasonably request in order to provide to the New Third Lien Agent the rights and powers set forth herein.

(d) By their acknowledgement hereto, Obligors agree to cause the agreement, document or instrument pursuant to which any New First Lien Trustee, any New Second Lien Trustee or any New Third Lien Agent is appointed to provide that the New First Lien Trustee and other First Lien Creditors thereunder, New Second Lien Trustee and other Second Lien Creditors thereunder, or New Third Lien Agent and other Third Lien Creditors thereunder, as applicable, agree to be bound by the terms of this Agreement.

Section 5. **Bankruptcy Matters.**

5.1 Bankruptcy. This Agreement shall be applicable both before and after the filing of any petition by or against any Obligor under the Bankruptcy Code or any other Insolvency Proceeding and all converted or succeeding cases in respect thereof, and all references herein to any Obligor shall be deemed to apply to the trustee for such Obligor and such Obligor as a debtor-in-possession. The relative rights of the First Lien Creditors, the Second Lien Creditors and the Third Lien Creditors in respect of any Collateral or proceeds thereof shall continue after the filing of such petition on the same basis as prior to the date of such filing, subject to any court order approving the financing of, or use of cash collateral by, any Obligor. This Agreement shall constitute a "subordination agreement" for the purposes of Section 510(a) of the Bankruptcy Code and shall be enforceable in any Insolvency Proceeding in accordance with its terms.

5.2 Adequate Protection.

(a) Adequate Protection. The Second Lien Creditors and Third Lien Creditors shall not contest or oppose in any manner any adequate protection provided to the First Lien Creditors to compensate for the diminution in value of the Collateral and shall be deemed to have waived any objections to such adequate protection. If the First Lien Creditors (or any subset thereof) are, or the Collateral Agent on their behalf is, granted adequate protection in the form of any "replacement Liens" granted to the First Lien Creditors as adequate protection of their interests in the Collateral (the "Senior Adequate Protection Liens"), the Second Lien Creditors and Third Lien Creditors may seek (and the First Lien Creditors shall not oppose) adequate protection of their interests in the Collateral in the form of replacement Liens on the additional

collateral subject to the Senior Adequate Protection Liens (the "Junior Adequate Protection Liens"), which Junior Adequate Protection Liens, if granted, will be subordinate to all Liens securing the First Lien Obligations and to the extent granted to the Third Lien Creditors, to the Second Lien Obligations, on the same basis as the other Liens securing the Second Lien Obligations and Third Lien Obligations are so subordinated under this Agreement. The Second Lien Creditors and Third Lien Creditors may seek other forms of adequate protection of their interests in the Collateral in any Insolvency Proceeding, subject to the rights of the First Lien Creditors to oppose and object to any such other forms of adequate protection, including, without limitation, any payments proposed to be made by any Obligor to the Second Lien Creditors and Third Lien Creditors.

5.3 Sale of Collateral; Waivers. Each of the Second Lien Creditors and Third Lien Creditors agree that they will not object to or oppose a Disposition of any Collateral securing the First Lien Obligations (or any portion thereof) free and clear of Liens or other claims under Section 363 of the Bankruptcy Code or any other provision of the Bankruptcy Code, if the First Lien Creditors have consented to such Disposition of such assets in accordance with the First Lien Documents, so long as the security interests of the Collateral Agent for the benefit of the Second Lien Creditors and the Third Lien Creditors in such Collateral attach to the proceeds thereof subject to the terms of this Agreement, including, without limitation, the order of application provided in Section 2.4; provided that the Second Lien Trustee, on behalf of itself and the other Second Lien Creditors, and the Credit Agreement Agent, on behalf of itself and the other Third Lien Creditors, may raise any objections to any such Disposition of such Collateral that could be raised by any unsecured creditor of the Obligors solely in its capacity as an unsecured creditor, provided, further, that, neither the Second Lien Trustee, the Second Lien Creditors, the Credit Agreement Agent nor the Third Lien Creditors may raise any objections based on rights afforded by Sections 363(e) and (f) of the Bankruptcy Code to secured creditors (or by any comparable provision of any Bankruptcy Law). The Second Lien Trustee, the Second Lien Creditors, the Credit Agreement Agent and the Third Lien Creditors waive any claim they may now or hereafter have arising out of the First Lien Creditors' election in any proceeding instituted under Chapter 11 of the Bankruptcy Code of the application of Section 1111(b)(2) of the Bankruptcy Code. The Second Lien Trustee, the Second Lien Creditors, the Credit Agreement Agent and the Third Lien Creditors agree not to initiate or prosecute or join with any other Person to initiate or prosecute any claim, action or other proceeding (i) challenging the enforceability of the First Lien Creditors' claims as fully secured claims with respect to all or part of the First Lien Obligations or for allowance of any First Lien Obligations (including those consisting of post-petition interest, fees or expenses) or opposing any action by the First Lien Trustee or the First Lien Creditors to enforce (or instruct the Collateral Agent on their behalf to enforce) their rights or remedies arising under the First Lien Documents in a manner which is not prohibited by the terms of this Agreement, (ii) challenging the enforceability, validity, priority or perfected status of any Liens on assets securing the First Lien Obligations under the First Lien Documents, (iii) asserting any claims which the Obligors may hold with respect to the First Lien Creditors, (iv) seeking to lift the automatic stay to the extent that such action is opposed by the First Lien Trustee or (v) opposing a motion by the First Lien Trustee (or the Collateral Agent on its behalf) to lift the automatic stay. The First Lien Creditors agree not to initiate or prosecute or join with any person to initiate or prosecute any claim, action or other proceeding challenging the enforceability, validity, priority or perfected status of any Liens on assets securing the Second Lien Obligations under the Second Lien Documents or the Third Lien Obligations under the

Third Lien Documents. After the First Lien Termination Date, the Second Lien Trustee and Second Lien Creditors shall succeed to the rights and benefits accorded the First Lien Trustee and First Lien Creditors under this Section 5.3, and the Credit Agreement Agent and the Third Lien Creditors shall be deemed to have agreed that all of the provisions of this Section 5.3 relating to such rights and benefits shall inure to the benefit of the Second Lien Trustee and the Second Lien Creditors as if provisions to such effect were expressly set forth in full in this Section.

5.4 Invalidated Payments. (a) To the extent that the First Lien Creditors receive payments on the First Lien Obligations or proceeds of Collateral for application to the First Lien Obligations which are subsequently invalidated, declared to be preferential or fraudulent transfers or conveyances, set aside and/or required to be repaid to a trustee, receiver or any other party under any Bankruptcy Law, common law, equitable cause or otherwise (and whether as a result of any demand, settlement, litigation or otherwise) (each a "First Lien Avoidance"), then to the extent of such payment or proceeds received, such Obligations, or part thereof, intended to be satisfied by such payment or proceeds shall be revived and continue in full force and effect as if such payments or proceeds had not been received by the First Lien Creditors, and this Agreement, if theretofore terminated, shall be reinstated in full force and effect as of the date of such First Lien Avoidance, and such prior termination shall not diminish, release, discharge, impair or otherwise affect the Lien priorities and the relative rights and obligations of the First Lien Creditors, the Second Lien Creditors and the Third Lien Creditors provided for herein with respect to any event occurring on or after the date of such First Lien Avoidance. The Second Lien Creditors agree that none of them shall be entitled to benefit from any First Lien Avoidance, whether by preference or otherwise, it being understood and agreed that the benefit of such First Lien Avoidance otherwise allocable to them shall instead be allocated and turned over for application in accordance with the priorities set forth in this Agreement.

(b) To the extent that the Second Lien Creditors receive payments on the Second Lien Obligations or proceeds of Collateral for application to the Second Lien Obligations which are subsequently invalidated, declared to be preferential or fraudulent transfers or conveyances, set aside and/or required to be repaid to a trustee, receiver or any other party under any Bankruptcy Law, common law, equitable cause or otherwise (and whether as a result of any demand, settlement, litigation or otherwise) (each a "Second Lien Avoidance"), then to the extent of such payment or proceeds received, such Obligations, or part thereof, intended to be satisfied by such payment or proceeds shall be revived and continue in full force and effect as if such payments or proceeds had not been received by the Second Lien Creditors, and this Agreement, if theretofore terminated, shall be reinstated in full force and effect as of the date of such Second Lien Avoidance, and such prior termination shall not diminish, release, discharge, impair or otherwise affect the Lien priorities and the relative rights and obligations of the Second Lien Creditors and the Third Lien Creditors provided for herein with respect to any event occurring on or after the date of such Second Lien Avoidance.

5.5 Payments. In the event of any Insolvency Proceeding involving one or more Obligors, all distributions constituting proceeds of Collateral and all Recourse Proceeds shall be paid or delivered by the Collateral Agent directly to the First Lien Trustee (or the Second Lien Trustee, if the First Lien Obligations have been Paid in Full) and applied pursuant to the waterfall in Section 2.4(b). Each of the Second Lien Trustee and the Credit Agreement Agent

irrevocably authorizes, empowers and directs any debtor, debtor in possession, receiver, trustee, liquidator, custodian, conservator or other Person having authority, to pay or otherwise deliver all such distributions in respect of any Second Lien Obligation or Third Lien Obligation, as applicable, to the Collateral Agent for the benefit of the First Lien Trustee; provided that the foregoing provision shall not apply to such distributions made in respect of the Second Lien Obligation or the Third Lien Obligation pursuant to a plan of reorganization under the Bankruptcy Code with respect to such Obligors which has been accepted by all classes composed of the holders of First Lien Obligations and which has been confirmed pursuant to a final order of the bankruptcy court or other body having jurisdiction over such Insolvency Proceeding. After the First Lien Termination Date, each Third Lien Creditor irrevocably authorizes, empowers and directs any debtor, debtor in possession, receiver, trustee, liquidator, custodian, conservator or other Person having authority, to pay or otherwise deliver all such distributions in respect of any Third Lien Obligation to the extent constituting proceeds of Collateral or Recourse Proceeds to the Collateral Agent for the benefit of the Second Lien Trustee; provided that the foregoing provision shall not apply to any such distributions made in respect of the Third Lien Obligations pursuant to a plan of reorganization under the Bankruptcy Code with respect to such Obligors which has been approved by all classes composed of holders of the Second Lien Obligations and which has been confirmed pursuant to a final order of the bankruptcy court or other body having jurisdiction over such Insolvency Proceeding. Each Second Lien Creditor and Third Lien Creditor also irrevocably authorizes and empowers the First Lien Trustee (or the Collateral Agent on its behalf), in the name of each Second Lien Creditor or Third Lien Creditor, as applicable, to demand, sue for, collect and receive any and all such distributions constituting proceeds of the Collateral or Recourse Proceeds otherwise payable in respect of any Second Lien Obligation or Third Lien Obligation but to which the First Lien Creditors are entitled by application of this Section 5.5. After the First Lien Termination Date, each Third Lien Creditor also irrevocably authorizes and empowers the Second Lien Trustee (or the Collateral Agent on its behalf) Agent, in the name of each Third Lien Creditor, to demand, sue for, collect and receive any and all such distributions constituting proceeds of the Collateral or Recourse Proceeds otherwise payable in respect of any Third Lien Obligation but to which the Second Lien Creditors are entitled by application of this Section 5.5. Notwithstanding the foregoing, to the extent that the Second Lien Creditors and the Third Lien Creditors are granted adequate protection in any Insolvency Proceeding in the form of cash payments not inconsistent with the terms of this Agreement, the provisions of this Section 5.5 shall not apply to such payments.

5.6 Separate Grants of Security and Separate Classification. Each First Lien Creditor, Second Lien Creditor and Third Lien Creditor acknowledges and agrees that (a) the grants of Liens pursuant to the Runoff Security Agreement for the benefit of the First Lien Creditors, the Second Lien Creditors and the Third Lien Creditors constitute three separate and distinct grants of Liens and (b) because of, among other things, their differing rights in the Collateral, the First Lien Obligations, the Second Lien Obligations and the Third Lien Obligations are fundamentally different from each other and must be separately classified in any plan of reorganization proposed or adopted in an Insolvency Proceeding. The First Lien Creditors, Second Lien Creditors and Third Lien Creditors shall not seek in any Insolvency Proceeding to be treated as part of the same class of creditors with one another and shall not oppose any pleading or motion by any of them for the First Lien Creditors, the Second Lien Creditors and the Third Lien Creditors to be treated as separate classes of creditors. Notwithstanding the foregoing, if it is held that the Obligations of all or any combination of two of the First Lien Creditors, the Second

Lien Creditors and the Third Lien Creditors in respect of the Collateral constitute only one secured claim (rather than separate classes of senior and junior secured claims), then each of the parties hereto hereby acknowledges and agrees that, consistent with Section 2.1, all distributions shall be made as if there were three separate classes of senior and junior secured claims against the Obligors in respect of the Collateral, with the effect being that, to the extent that the aggregate value of the Collateral exceeds the amount of the First Lien Obligations, the First Lien Creditors shall be entitled to receive, in addition to amounts distributed to them in respect of principal, pre-petition interest and other claims, all amounts owing in respect of post-petition interest, and fees, costs and charges incurred subsequent to the commencement of the applicable Insolvency Proceeding before any distribution is made in respect of any of the claims held by the Second Lien Creditors and Third Lien Creditors, and to the extent that the aggregate value of the Collateral exceeds the amount of the First Lien Obligations and the Second Lien Obligations, the Second Lien Creditors shall be entitled to receive, in addition to amounts distributed to them in respect of principal, pre-petition interest and other claims, all amounts owing in respect of post-petition interest, and fees, costs and charges incurred subsequent to the commencement of the applicable Insolvency Proceeding before any distribution is made in respect of any of the claims held by the Third Lien Creditors. The Second Lien Creditors and Third Lien Creditors hereby acknowledge and agree to turn over to the First Lien Creditors amounts otherwise received or receivable by them to the extent necessary to effectuate the intent of the preceding sentence, even if such turnover has the effect of reducing the claim or recovery of the Second Lien Creditors and Third Lien Creditors, and the Third Lien Creditors hereby acknowledge and agree to turn over to the Second Lien Creditors amounts otherwise received or receivable by them to the extent necessary to effectuate the intent of the preceding sentence, even if such turnover has the effect of reducing the claim or recovery of the Third Lien Creditors.

Section 6. **Miscellaneous.**

6.1 Termination. Subject to Section 4.4, this Agreement shall terminate and be of no further force and effect (a) as to the First Lien Creditors, upon the Payment in Full of the First Lien Obligations and (b) following the Payment in Full of the First Lien Obligations, upon the first to occur of the Payment in Full of (i) the Second Lien Obligations or (ii) the Third Lien Obligations.

6.2 Successors and Assigns; No Third Party Beneficiaries.

(a) This Agreement shall be binding upon each Secured Creditor and its respective successors and assigns and shall inure to the benefit of each Secured Creditor and its respective successors, participants and assigns. No other Person shall have or be entitled to assert rights or benefits hereunder.

(b) Each Secured Creditor reserves the right (subject to any restrictions in the applicable Document) to grant participations in, or otherwise sell, assign, transfer or negotiate all or any part of, or any interest in, their respective Obligations; provided that no Secured Creditor shall be obligated to give any notices to or otherwise in any manner deal directly with any participant in the Obligations and no participant shall be entitled to any rights or benefits under this Agreement, except through the Secured Creditor with which it is a participant.

(c) In connection with any participation or other transfer or assignment, a Secured Creditor (i) may, subject to its respective Documents, disclose to such assignee, participant or other transferee or assignee all documents and information which such Secured Creditor now or hereafter may have relating to any Obligor or the Collateral and (ii) shall disclose to such participant or other transferee or assignee the existence and terms and conditions of this Agreement.

6.3 Notices. All notices and other communications provided for hereunder shall be in writing and shall be mailed, sent by overnight courier, telecopied or delivered, as follows:

(a) if to First Lien Trustee, to it at the following address:

Wilmington Trust, National Association
Corporate Capital Markets
50 South Sixth Street, Suite 1290
Minneapolis, MN 55402
Attention: Washington Mutual, Inc. Administrator
Facsimile: 612-217-5651

(b) if to Second Lien Trustee, to it at the following address:

Law Debenture Trust Company of New York
400 Madison Avenue, 4th Floor
New York, NY 10017
Attention: Managing Director

Facsimile No: (212) 750-1361

(c) if to Credit Agreement Agent, to it at the following address:

U.S. Bank National Association

(d) if to the Obligors, to the following address:

Washington Mutual, Inc.
1301 Second Avenue
Seattle, Washington 98101
Attention: General Counsel

With a copy to:

or, as to each party, at such other address as shall be designated by such party in a written notice to the other parties complying as to delivery with the terms of this Section 6.3. All such notices and other communications shall be effective (i) if sent by registered mail, return receipt requested, when received or 3 Business Days after mailing, whichever first occurs, (ii) if telecopied, when transmitted and a confirmation is received, provided the same is on a Business Day and, if not, on the next Business Day or (iii) if delivered by messenger or overnight courier, upon delivery, provided the same is on a Business Day and, if not, on the next Business Day.

6.4 Counterparts. This Agreement may be executed by the parties hereto in several counterparts, and each such counterpart shall be deemed to be an original and all of which shall constitute together but one and the same agreement.

6.5 GOVERNING LAW; CONSENT TO JURISDICTION AND VENUE. THIS AGREEMENT AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE AND ANY APPLICABLE LAWS OF THE UNITED STATES OF AMERICA. EACH OF THE PARTIES HERETO HEREBY CONSENTS AND AGREES THAT THE STATE OR FEDERAL COURTS LOCATED IN NEW YORK COUNTY, NEW YORK SHALL HAVE JURISDICTION TO HEAR AND DETERMINE ANY CLAIMS OR DISPUTES AMONG THE PARTIES HERETO PERTAINING TO THIS AGREEMENT OR TO ANY MATTER ARISING OUT OF OR RELATING TO THIS AGREEMENT; PROVIDED THAT THE PARTIES HERETO ACKNOWLEDGE THAT ANY APPEALS FROM THOSE COURTS MAY HAVE TO BE HEARD BY A COURT OF COMPETENT JURISDICTION LOCATED OUTSIDE OF NEW YORK COUNTY, NEW YORK. EACH OF THE PARTIES HERETO EXPRESSLY SUBMITS AND CONSENTS IN ADVANCE TO SUCH JURISDICTION IN ANY ACTION OR SUIT COMMENCED IN ANY SUCH COURT, AND EACH OF THE PARTIES HERETO HEREBY WAIVES ANY OBJECTION WHICH IT MAY HAVE BASED UPON LACK OF PERSONAL JURISDICTION, IMPROPER VENUE OR FORUM NON CONVENIENS.

6.6 MUTUAL WAIVER OF JURY TRIAL. THE PARTIES HERETO WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT OR PROCEEDING BROUGHT TO RESOLVE ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, BETWEEN THE PARTIES ARISING OUT OF, CONNECTED WITH, RELATED TO, OR INCIDENTAL TO THE RELATIONSHIP ESTABLISHED BETWEEN THEM IN CONNECTION WITH, THIS AGREEMENT OR THE TRANSACTIONS RELATED THERETO.

6.7 Amendments. No amendment or waiver of any provision of this Agreement, and no consent to any departure by any Person from the terms hereof, shall in any event be effective unless it is in writing and signed by each Agent. In no event shall the consent of any Obligor be required in connection with any amendment or other modification of this Agreement, unless such amendment or other modification imposes any additional obligations or changes any existing obligations of such Obligor under this Agreement.

6.8 No Waiver. No failure or delay on the part of any Secured Creditor in exercising any power or right under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such power or right preclude any other or further exercise thereof or the exercise of any other power or right.

6.9 Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provisions in any other jurisdiction.

6.10 Further Assurances. Each party hereto agrees to cooperate fully with each other party hereto to effectuate the intent and provisions of this Agreement and, from time to time, to execute and deliver any and all other agreements, documents or instruments, and to take such other actions, as may be reasonably necessary or desirable to effectuate the intent and provisions of this Agreement.

6.11 Headings. The section headings contained in this Agreement are and shall be without meaning or content whatsoever and are not part of this Agreement.

6.12 Lien Priority Provisions. This Agreement and the rights and benefits hereunder shall inure solely to the benefit of the Collateral Agent, the First Lien Trustee, the First Lien Creditors, the Second Lien Trustee, the Second Lien Creditors, the Credit Agreement Agent and the Third Lien Creditors and their respective successors and permitted assigns and no other Person (including the Obligors or any trustee, receiver, debtor in possession or bankruptcy estate in a bankruptcy or like proceeding) shall have or be entitled to assert rights or benefits hereunder. Nothing contained in this Agreement is intended to or shall impair the obligation of any Obligor to pay the Obligations as and when the same shall become due and payable in accordance with their respective terms, or to affect the relative rights of the creditors of any Obligor, other than the rights of the First Lien Trustee, the First Lien Creditors, the Second Lien Trustee, the Second Lien Creditors, the Credit Agreement Agent and the Third Lien Creditors as between themselves with respect to the Collateral and the other matters expressly set forth herein. Without intending the limit the scope of the preceding sentence, each of the parties hereto agree that, except as expressly set forth herein with respect to the Collateral, nothing in this Agreement is intended to apply to, limit or otherwise affect any rights or remedies of the Third Lien Creditors under the Third Lien Documents or applicable law with respect to the Third Lien Obligations or the Credit Agreement Separate Collateral.

6.13 Credit Analysis. The Secured Creditors shall each be responsible for keeping themselves informed of (a) the financial condition of the Obligors and all other all endorsers, obligors and/or guarantors of the Obligations and (b) all other circumstances bearing upon the risk of nonpayment of the Obligations. Except as expressly set forth in Section 3.2, no Secured Creditor shall have any duty or obligation to advise any other Secured Creditor of information known to it regarding such condition or any such other circumstances. No Secured Creditor assumes any liability to any other Secured Creditor or to any other Person with respect to: (i) the financial or other condition of Obligors, (ii) the enforceability, validity, value or collectibility of the Obligations, any Collateral therefor or any guarantee or security which may have been

granted in connection with any of the Obligations or (iii) any Obligor's title or right to transfer any Collateral or security.

6.14 Waiver of Claims. To the maximum extent permitted by law, each party hereto waives any claim it might have against any Secured Creditor with respect to, or arising out of, any action or failure to act or any error of judgment or negligence, mistake or oversight whatsoever on the part of any other party hereto or their respective directors, officers, employees or agents with respect to any exercise of rights or remedies relating to the Collateral in accordance with this Agreement. None of the Secured Creditors, nor any of their respective directors, officers, employees or agents shall be liable for failure to demand, collect or realize upon any of the Collateral or for any delay in doing so or, except as specifically provided herein, shall be under any obligation to Dispose of any Collateral upon the request of any Obligor or any Secured Creditor or any other Person or to take any other action whatsoever with regard to the Collateral or any part thereof.

6.15 Conflicts. In the event of any conflict between the provisions of this Agreement and the provisions of the Documents (other than Section 7.16 of the First Lien Indenture and Section 7.16 of the Second Lien Indenture), the provisions of this Agreement shall govern.

6.16 Specific Performance. Each Representative may demand specific performance of this Agreement and, on behalf of itself and the respective other Secured Creditors, hereby irrevocably waives any defense based on the adequacy of a remedy at law and any other defense that might be asserted to bar the remedy of specific performance in any action which may be brought by the respective Secured Creditors.

6.17 Subrogation. The Second Lien Trustee, the Second Lien Creditors, the Credit Agreement Agent and the Third Lien Creditors hereby agree that until the First Lien Termination Date has occurred they will not assert any rights of subrogation it or they may acquire as a result of any payment hereunder; provided that as between the Obligors, on the one hand, and the Second Lien Creditors or the Third Lien Creditors (as applicable), on the other hand, any such payment otherwise payable to the Second Lien Creditors or Third Lien Creditors that is paid over to the First Lien Trustee (or the Collateral Agent on its behalf) pursuant to this Agreement shall be deemed not to reduce any of the First Lien Obligations. The Credit Agreement Agent and the Third Lien Creditors hereby further agree that until the Second Lien Termination Date has occurred they will not assert any rights of subrogation it or they may acquire as a result of any payment hereunder; provided that as between the Obligors, on the one hand, and the Third Lien Creditors, on the other hand, any such payment otherwise payable to Third Lien Creditors that is paid over to the Second Lien Trustee (or the Collateral Agent on its behalf) pursuant to this Agreement shall be deemed not to reduce any of the Second Lien Obligations.

6.18 Entire Agreement. This Agreement and the Documents embody the entire agreement of the Obligors, the Collateral Agent, , the First Lien Trustee, the First Lien Creditors, the Second Lien Trustee, the Second Lien Creditors, the Credit Agreement Agent and the Third Lien Creditors with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings relating to the subject matter hereof and thereof and any draft agreements, negotiations and/or discussions involving any Obligor and any of the Collateral Agent, the First Lien Trustee, the First Lien Creditors, the Second Lien Trustee, the Second Lien

Creditors, the Credit Agreement Agent and the Third Lien Creditors relating to the subject matter hereof.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized as of the day and year first above written.

FIRST LIEN TRUSTEE:

WILMINGTON TRUST, NATIONAL ASSOCIATION
as First Lien Trustee

By: _____
Name: _____
Title: _____

SECOND LIEN TRUSTEE:

LAW DEBENTURE TRUST COMPANY OF NEW YORK
as Second Lien Trustee

By: _____
Name: _____
Title: _____

CREDIT AGREEMENT AGENT:

U.S. BANK NATIONAL ASSOCIATION, as Credit Agreement Agent

By: _____
Name: _____
Title: _____

COLLATERAL AGENT:

WILMINGTON TRUST, NATIONAL ASSOCIATION
as Collateral Agent

By: _____
Name: _____
Title: _____

Each of the undersigned hereby acknowledges and agrees to the foregoing terms and provisions.

OBLIGORS:

[REORGANIZED WMI]

By: _____
Name: _____
Title: _____